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IN THE SUPREME COURT OF THE STATE OF IDAHO

THOMAS EUGENE CREECH,)	DOCKET NO. 51229-2023
)	
Petitioner-Appellant,)	CAPITAL CASE
)	
v.)	MOTION TO STAY
)	EXECUTION AND BRIEF IN
STATE OF IDAHO,)	SUPPORT
)	
Respondent-Appellee.)	EXECUTION SCHEDULED
)	FOR FEBRUARY 28, 2024
_____)	

For the reasons detailed below, Appellant Thomas Eugene Creech respectfully requests an order staying his execution until the pending case is fully resolved, including any related proceedings on certiorari review at the U.S. Supreme Court or on remand to the district judge.

I. Background

Mr. Creech is a death-row inmate whose criminal proceedings arise from Ada County. The State obtained a death warrant in this case in October 2023, but the

execution was stayed by the district court because the Idaho Commission of Pardons and Parole granted a hearing on Mr. Creech’s commutation petition. On January 29, 2024, after the hearing was held, the Commission announced that it was denying a commutation on a three-three tie vote after the seventh Commissioner recused himself from the proceedings for unknown reasons. *See* https://parole.idaho.gov/wp-content/uploads/2024/01/Creech-Decision-with-signatures_Redacted.pdf. The three Commissioners who voted favorably invoked as one basis the “change in law requiring that a death sentence be decided by a jury rather than a judge” and as another reason the fact that Judge Newhouse—who imposed the death sentence—“no longer believe[s] that a sentence of death is appropriate for Mr. Creech’s conviction.” *Id.*

On January 30, 2024, the State obtained a death warrant for Mr. Creech, scheduling his execution for February 28, 2024. Mr. Creech has pending a post-conviction appeal here, in which he is challenging his death sentence under the Eighth Amendment on the ground that it was imposed by a judge without any participation by a jury. Oral argument is scheduled before this Court for February 5, 2024 and the appeal is fully briefed. Here, Mr. Creech is now seeking a stay of execution until the Eighth Amendment claim has been finally disposed of in the state court system, including in any certiorari or remand proceedings.

II. Argument

Turning to the substantive argument, a stay is both permissible under Idaho law and necessary as a practical matter.

A. A stay of execution is required and appropriate.

There are several reasons why a stay of execution is warranted.

To begin, a stay is mandatory. I.A.R. 13(c)(7) provides that in capital cases “execution of the sentence *shall* be automatically stayed pending appeal.”¹ For its part, I.C.R. 38(a) states that a “court must stay a death sentence if the defendant appeals the conviction or sentence.” As this Court has clarified, Rule 38(a) “permits the imposition of a stay when the case is being appealed or reviewed in state court.” *State v. Leavitt*, 280 P.3d 169, 175 (Idaho 2012).

The compulsory nature of the stay is also confirmed by Idaho Code § 19-2715(1). There, the legislature instructed that “a stay of execution *shall* be granted during an appeal taken pursuant to section 19-2719, Idaho Code.” Section 19-2719 is the general provision for capital post-conviction proceedings. Similarly, Idaho Code § 19-2719(1) demands the entry of “a stay of execution while the special appellate procedures specified herein are followed.” Mr. Creech’s petition was filed pursuant to § 19-2719. *See* R. 6. Furthermore, Mr. Creech has demonstrated in his briefing that the petition was timely under the limitations set forth in § 19-2719.

¹ In this filing, unless otherwise noted, all internal quotation marks and citations are omitted, and all emphasis is added.

See Aplt. Opening Br., filed Nov. 16, 2023 (hereinafter “AOB”), at 8–18. It follows that a stay must issue as a matter of course.²

Because there is a stay in force under § 19-2715(1), § 19-2715(4) has no bearing here. Section 19-2715(4) only applies when an execution has not taken place for a reason “*other* than those set forth in subsection (1).” As detailed above, the stay here is a creature of § 19-2715(1). Thus, § 19-2715(4) does not control. Assuming *arguendo* that the Court disagrees, a death warrant is also forbidden under § 19-2715(4). That clause bars a death warrant when a “legal reason exists against the execution of the judgment.” Such a reason is present here—namely, the pending appeal.

To the extent the Court sees things differently and does not believe a stay is mandatory, one is still prudent.

First, a stay will give this Court the time it needs to ensure that its own opinion is produced in a thorough, deliberative fashion, without the unnecessary pressure of a death warrant. The parties have filed extensive briefs addressing three involved and important issues: 1) whether and under what circumstances a district court may *sua sponte* dismiss a successive capital post-conviction petition;

² Mr. Creech acknowledges that motions seeking stays of execution based on similar arguments have in the past been rejected. However, because those orders were unreasoned, Mr. Creech is unsure of whether the reasoning would apply here. That is one reason why Mr. Creech respectfully encourages the Court to provide its analysis, so that future parties have the benefit of understanding what the law is in this critically important area with life-and-death stakes.

2) whether Mr. Creech’s post-conviction petition was timely; and 3) whether Mr. Creech’s Eighth Amendment claim is viable in light of the copious data and historical developments evidencing a definitive trend away from executing judge-sentenced inmates. These are serious questions and their resolution will impact other cases, capital and non-capital alike. They deserve careful consideration, which a stay of execution will facilitate.

Second, a stay of execution will permit the same careful consideration from the district judge, if the Court sees fit to remand the matter. The district court dismissed the post-conviction petition below a single business day after it was filed and in the absence of any filing by the State. *See* AOB at 2. Mr. Creech is arguing here that the district court committed reversible error in doing so. *See id.* at 5–8. Although the State disagrees, *see* Resp. Br., filed Dec. 7, 2023 (hereinafter “Resp. Br.”), at 11–13, it relies entirely on *non*-capital cases interpreting a statute (Idaho Code § 19-4906) that was not even mentioned by the district court, *see* Reply Br., filed Dec. 13, 2023 (hereinafter “Reply Br.”), at 1–10. As the briefing establishes, this Court has never before sanctioned the district judge’s approach. That is, the Court has never approved the sua sponte dismissal of a capital post-conviction petition without any notice to the inmate. Mr. Creech accordingly has a strong case for a remand, so that the district court can adjudicate the petition in light of the usual dispositive motion practice rather than on its own initiative. If there is a remand, a stay of execution will give the district judge the same kind of space necessary for a contemplative resolution that is described above.

Third, if the Court declines to remand and instead affirms the denial of relief, Mr. Creech has a right to seek certiorari review at the U.S. Supreme Court of any matters of federal constitutional law that were resolved by decisions in his case. *See* 28 U.S.C. § 1257(a); *Oregon v. Guzek*, 546 U.S. 517, 521 (2006). Presumably, if the Court upholds the judgment below it will be either because it adopts the State's position and views the petition as untimely, *see* Resp. Br. at 14–20, or because it rejects the claim on the merits.

As Mr. Creech explains in his opening brief, any opinion that accepts the State's timeliness theory would lead to a rule of law that essentially makes it impossible for a prisoner to ever obtain post-conviction review of an evolving-standards claim. *See* Reply Br. at 14–15. That is so because the State is essentially positing that a petitioner must bring such a claim when he knows that it may be meritorious *in the future*, even if it is unsupported in the present. *See id.* Thus, if the Court takes the State's recommended route, Mr. Creech would have a credible claim to present to the U.S. Supreme Court that his federal due process right to a free and fair post-conviction proceeding and his right to access the courts had been violated. *See Evitts v. Lucey*, 469 U.S. 387, 401 (1985).

On the other hand, if this tribunal rebuffs Mr. Creech's claim on the merits, then he will have a substantial Eighth Amendment issue to offer the U.S. Supreme Court. That issue would be bolstered by unequivocal statistics showing, for instance, that only 0.68% of the relevant inmates on death row were sent there by judges sitting alone, and that 0.46% of the relevant executions in the last ten years

were of such inmates—numbers that stack up very favorably against the controlling precedents. *See* AOB at 22–25. In sum, if this tribunal denies relief, Mr. Creech will have a substantial federal constitutional question to present to the U.S. Supreme Court in his certiorari petition, no matter what the rationale is here.

Litigants are given ninety days from adverse appellate judgments to submit a petition for certiorari at the U.S. Supreme Court. *See* Sup. Ct. R. 13(1). If Mr. Creech is executed, he obviously cannot vindicate his entitlement to certiorari consideration at the U.S. Supreme Court. It is consequently proper to stay the execution.

To the extent the Court balances the harms to the parties and the public interest in determining the propriety of a stay, these factors all militate in favor of granting the instant motion. Mr. Creech will be executed absent a stay, which is the greatest and most irrevocable harm imaginable. *See Gregg v. Georgia*, 428 U.S. 153, 187 (1976) (plurality op.) (“There is no question that death as a punishment is unique in its severity and irrevocability.”); *see also Wainwright v. Booker*, 473 U.S. 935, 935 n.1 (1985) (Powell, J., concurring) (observing that irreparable harm in the absence of a stay of execution “is necessarily present in capital cases”).

By contrast, the State would suffer no measurable prejudice if the stay were issued. Mr. Creech has been on death row for more than forty years for the Jensen murder. *See State v. Creech*, 670 P.2d 463 (Idaho 1983). A stay of execution for a

few more months³ to allow Mr. Creech to litigate the substantial issues in this case will do the State no harm. *See Mikutaitis v. United States*, 478 U.S. 1306, 1309 (1986) (Stevens, J., in chambers) (granting a stay and emphasizing that the government would not “be significantly prejudiced by an additional short delay”). What is more, the Idaho Department of Correction has declared the expiration date for the lethal chemicals will not come until February 2025.

Finally, the public interest favors a stay. Although Mr. Creech acknowledges the view that the public has an interest in carrying out death sentences, a stay will not interfere with that interest. If Mr. Creech is granted a stay pending certiorari, his death sentence will remain in effect. The only purpose of a stay is to enable the appellate process to run its normal course and for Mr. Creech’s challenges to receive a full airing. Should his claims fail on appeal, an execution remains available to the State assuming no other legal obstacles are in place.

Furthermore, the public’s interest in finality now is also substantially diminished by the fact that Mr. Creech is not responsible for a significant amount of

³ Apart from the ninety-day timeline mentioned above, it also bears emphasis that the certiorari process as a whole has a tightly circumscribed lifespan. *See* Sup. Ct. R. 15(1) (requiring responses to certiorari petitions in all capital cases); Sup. Ct. R. 15(3) (providing parties thirty days to respond to a certiorari petition); Sup. Ct. R. 15(5) (indicating that certiorari petitions are distributed for conference roughly fourteen days after the brief in opposition is filed); Joan Steinman, *Postremoval Changes in the Party Structure of Diversity Cases: The Old Law, The New Law, and Rule 19*, 38 U. Kan. L. Rev. 863, 865 n.4 (1990) (“The average length of time that petitions for writs of certiorari remain pending is six weeks from filing or two to three weeks after the brief in opposition to grant of the petition is filed.”).

the delay that has occurred in carrying out his death sentence. The reason that Mr. Creech has not yet been executed is that he has had challenges pending in court to his convictions and death sentence for the last forty-plus years. One large chunk of time is attributable to the fact that Mr. Creech was resentenced to death twelve years after his initial punishment was imposed as a result of his constitutional rights being violated at the initial proceeding, which no court corrected until the Ninth Circuit intervened after extensive litigation. *See Creech v. Arave*, 947 F.2d 873, 881–85 (9th Cir. 1991), *rev'd in part*, 507 U.S. 463 (1993). Years more were tacked onto the case by virtue of the U.S. Supreme Court's decision in *Martinez v. Ryan*, 566 U.S. 1 (2012), a decision that “represent[ed] a remarkable sea change in decades-old precedent-law which lower courts and litigants understood as settled,” *Haynes v. Thaler*, 489 F. App'x 770, 776 (5th Cir. 2012) (Dennis, J., dissenting), *vacated on unrelated grounds*, 569 U.S. 1015 (2013). *Martinez* compelled a remand, substantial additional proceedings here, replacement briefs on appeal, a new oral argument, and a lengthy opinion from the Ninth Circuit—all of which took about eleven years to accomplish. *See generally Creech v. Richardson*, 59 F.4th 372, 380–82 (9th Cir.), *cert. denied*, 144 S. Ct. 291 (2023).

Throughout all of the above, the parties and the Court both needed a substantial amount of time to ensure the issues received the appropriate level of care and scrutiny. That includes Mr. Creech's legal team as well as the State's—opposing counsel secured at least thirty-six extensions during the second round of

federal habeas litigation, comprising nearly three years in total. *See* Ex. 1.⁴ Three years is actually a quite conservative estimate, as it does not even account for the numerous extensions the prosecutors and Attorney General obtained in state post-conviction proceedings. *See* Ex. 2.⁵ All of these delays flow from the premise that courts are “particularly sensitive to insure that every safeguard is observed” in cases where “a defendant’s life is at stake.” *Gregg*, 428 U.S. at 187. They certainly do not speak to any delay by Mr. Creech in bringing the claim at bar now.

With each due date it moved, the State put off the day that Mr. Creech’s death sentence could be carried out. It did so because its interest in being fully heard on its arguments outweighed its interest in a speed-at-any-cost approach. The same calculus applies now. Mr. Creech’s interest in receiving thorough appellate consideration of his claims outweighs any interest in hastening the case to its end based on the artificially compressed timeline created by the State’s choice to obtain a death warrant—something the Attorney General notably did while knowing this Court had already scheduled oral argument for February 2024. Just

⁴ Exhibit 1 is comprised of the dockets from the second round of federal habeas litigation in the district court and the Ninth Circuit. The highlighted docket entries reflect the State’s extension requests and the orders granting them. To the extent it is necessary, Mr. Creech respectfully asks that judicial notice be taken of the dockets.

⁵ Exhibit 2 is a declaration by opposing counsel submitted to the Parole Commission. Undersigned counsel has highlighted the passages discussing extensions taken by the State, which include several proceedings not covered by Exhibit 1.

as the State did in the collateral cases challenging Mr. Creech’s convictions and death sentence, all litigants require time to research and craft pleadings to raise the arguments they are entitled to raise in court. The State received such time in ample measure in the prior proceedings, and Mr. Creech should be afforded his modest allotment here so that he can obtain meaningful judicial review of his claims, as any party has a right to do.

Moreover, the public interest is always served when the Constitution is vindicated, *see Gannett Co. v. DePasquale*, 443 U.S. 368, 383 (1979), which in this instance requires a consideration of Mr. Creech’s serious claims before he is executed.

A stay merely “preserve[s] the status quo during the pendency of an appeal.” *Haw. Hous. Auth. v. Midkiff*, 463 U.S. 1323, 1324 (1983). The consequences of a denied stay—an irreversible and involuntary death at the hands of the State—are far more severe than making the prosecutor wait a few more months to carry out an execution that has already been postponed for more than four decades.

B. Any prohibition on a stay would be unconstitutional.

Idaho Code § 19-2715(1) purports to limit the circumstances in which stays of execution can be granted. However, in the event the Court reads the provision as

prohibiting the issuance of a stay, the statute would violate the separation of powers and thus cannot be so interpreted and enforced.⁶

By virtue of the Idaho Constitution, the legislature has “no power to deprive the judicial department of any power or jurisdiction which rightly pertains to it as a coordinate department of the government.” Idaho Const., Art. V, § 13. If a statute can be construed to avoid a separation-of-powers problem, it must be so construed. *See State v. Olivas*, 347 P.3d 1189, 1195 (Idaho 2015). When an act by a coordinate branch infringes upon the judiciary’s inherent powers, the courts will nullify it. *See Idaho State Bar Ass’n v. Idaho Pub. Utils. Comm’n*, 637 P.2d 1168, 1173 (Idaho 1981).

Under those principles, any statute purporting to take away the judiciary’s ability to stay an execution is unenforceable. The authority to interpret the Constitution is at the core of the judiciary’s responsibilities. *See Lanham v. Fleenor*, 429 P.3d 1231, 1236 (Idaho 2018) (“This function, determining the applicable law, is a bedrock of judicial decision-making. As Chief Justice John Marshall wrote in the landmark decision *Marbury v. Madison*, it is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must necessarily expound and interpret that rule.”). If § 19-2715 effectively requires the courts to order Mr. Creech executed before the case is

⁶ This Court’s cases discussing § 19-2715(1) have not dealt with the separation of powers, and therefore do not foreclose the argument above. *See Leavitt v. Craven*, 302 P.3d 1 (Idaho 2012); *Leavitt*, 280 P.3d 169.

resolved by stripping them of the power to grant a stay, it deprives the judiciary of the ability to fully and meaningfully adjudicate his constitutional rights, and consequently runs afoul of the separation of powers.

Additionally, courts have the inherent authority to manage their own dockets. *See, e.g., Dietz v. Bouldin*, 579 U.S. 40, 45 (2016). That authority carries with it the power to stay judicial proceedings where appropriate. *See Air Line Pilots Ass’n v. Miller*, 523 U.S. 866, 879 n.6 (1998) (reiterating that “[t]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket”). In Idaho, an execution is essentially a judicial event. That is, the inmate is executed by order of the judge who signs the death warrant. *See Idaho Code* § 19-2705. Idaho courts therefore have the inherent power to stay the execution, as they themselves have ordered it. *Cf. State v. Robert*, 814 N.W.2d 122, 124–25 (S.D. 2012) (describing the stay of an execution as “com[ing] within th[e] Court’s inherent authority to preserve the status quo” “pending the appeal” and therefore as requiring no “express statutory authority”).

In *State v. Moore*, 730 N.W.2d 563, 564 (Neb. 2007), the Nebraska Supreme Court went so far as to sua sponte stay an execution based on its “inherent judicial power” to “do all things that are reasonably necessary for the proper administration of justice.” The court remarked upon its “supervisory power over the courts and the power to temporarily stay execution on judgments rendered by them whenever it is reasonably necessary to accomplish the ends of justice and prevent injustice.” *Id.* at 564–65. “Obviously,” the court concluded, “that inherent power extends to our own

judgments and orders, including the death warrant in this case.” *Id.* at 565. In fact, *Moore* deemed it especially appropriate to invoke the power in a capital case, where the court’s “unique constitutional responsibilities impose a heightened standard of vigilance as [the court] administer[ed] and supervise[d] implementation of the death penalty.” *Id.*

The rationales from these well-reasoned opinions apply with equal measure here. As in South Dakota and Nebraska, the courts in Idaho have an inherent power to stay executions, and the legislature cannot remove it. Were it otherwise, an Idaho court would have to sign a death warrant and then could do nothing about stopping the resulting execution, even when it would cause a man to be killed by the State unconstitutionally. That cannot be the law. *See Tate v. State Bd. of Med. Exam’rs*, 356 P.3d 506, 510–11 (Nev. 2015) (striking down a statute under the separation of powers where it purported to deprive courts of the ability to issue stays pending judicial review because judges always have “the power to preserve the status quo” and the statute impermissibly made appeals “a meaningless and merely ritualistic process”); *Ardt v. Ill. Dep’t of Prof’l Regulation*, 607 N.E.2d 1226, 1232 (Ill. 1992) (coming to the same conclusion and reasoning that “to allow a court the ability to right a possible wrong by granting an appeal while denying it the power to defer imposition of a penalty attached to that wrong would be to deny the court its inherent right to make effective its constitutional grant of power”); *Smothers v. Lewis*, 672 S.W.2d 62, 65 (Ky. 1984) (reaching the same result on the

ground that the challenged ban on stays “pay[s] lip service to” the party’s appellate rights “while eradicating any practical reason for taking the appeal”).

Reflecting their well-entrenched authority in this regard, trial judges around the country routinely stay a variety of actions pending certiorari proceedings at the U.S. Supreme Court. *See, e.g., State v. Penwell*, 875 N.E.2d 365, 366 (Ind. Ct. App. 2007) (noting that the judge stayed a criminal trial so the defendant could seek certiorari review of a suppression issue); *Frazier v. State*, 761 So. 2d 337, 338–39 (Fla. Dist. Ct. App. 1999) (describing how the judge stayed a criminal trial so the State could seek certiorari consideration of an asserted instructional error); *Davidson v. Commonwealth*, 432 S.E.2d 178, 179 (Va. 1993) (mentioning that the judge stayed the inmate’s execution “so that he could file a petition for writ of certiorari in the United States Supreme Court”). The legislature has no constitutional license to deprive this Court of its basic power to issue stays pending litigation—and one should be granted here.

III. Conclusion

For the reasons outlined above, Mr. Creech respectfully asks the Court to stay his execution until his claim has been fully disposed of, including through any certiorari proceedings or litigation on remand.

Dated this 31st day of January 2024.

/s/ Jonah J. Horwitz
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Attorney for Petitioner-Appellant

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of January 2024, I caused to be served a true and correct copy of the foregoing document by the method indicated below:

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EXHIBIT 1

(Docket Sheets, *Creech v. Pasket*,
USDC No. 1:99-cv-00224-BLW and 9th Cir. No. 10-99015)

APPEAL,DEATHP,LC8,PROSE,REOPEN,TERMED

U.S. District Court
District of Idaho (LIVE) NextGen 1.7 (Boise - Southern)
CIVIL DOCKET FOR CASE #: 1:99-cv-00224-BLW

Creech v. Pasket
Assigned to: Judge B Lynn Winmill
Demand: \$0
Case in other court: Ninth Circuit Court of Appeals, 10-99015
Cause: 28:2254 Ptn for Writ of H/C - Stay of Execution

Date Filed: 06/11/1999
Date Terminated: 03/24/2017
Jury Demand: None
Nature of Suit: 535 Death Penalty - Habeas Corpus
Jurisdiction: Federal Question

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Date Filed	#	Docket Text
06/10/1999	<u>1</u>	STATEMENT OF ISSUES by petitioner Thomas E Creech (sb) (Entered: 06/11/1999)
06/10/1999	<u>2</u>	APPLICATION by petitioner for permission to proceed in forma pauperis and for appointment of counsel to assist in the investigation and preparation of a petition for writ of habeas corpus under Local Rule 9.4(f)(3). (sb) (Entered: 06/11/1999)
06/10/1999	<u>3</u>	APPLICATION by petitioner for Stay of Execution (sb) (Entered: 06/11/1999)
06/14/1999	<u>4</u>	ORDER by Honorable B. Lynn Winmill granting a stay of execution and appointing counsel [2-1][3-1]; briefing schedule set (cc: all counsel) (sb)
06/15/1999	<u>5</u>	MOTION by petitioner for appointment of co-counsel (sb) (Entered: 06/16/1999)
06/24/1999	<u>6</u>	NOTICE OF NON-OBJECTION by respondent to motion for appointment of co-counsel [5-1] (sb) (Entered: 06/28/1999)

06/30/1999	7	ORDER by Honorable B. Lynn Winmill granting motion of petitioner for appointment of co-counsel [5-1] Teresa Hampton (cc: all counsel) (sb)
08/20/1999	8	MOTION by respondent to lodge presentence report under seal of the court (sb) (Entered: 08/24/1999)
08/20/1999	9	NOTICE by respondent of lodging state court records pursuant to Rule 5 of the Rules governing 28 USC 2254 cases (1 box of Records placed in 4th Floor Exhibit Room) (sb) Modified on 08/24/1999 (Entered: 08/24/1999)
08/30/1999	10	MOTION by petitioner for extension of time (sb) (Entered: 08/31/1999)
08/30/1999	11	AFFIDAVIT of August Cahill re motion for extension of time [10-1] (sb) (Entered: 08/31/1999)
08/30/1999	12	AFFIDAVIT of Rolfe Kehne re motion for extension of time [10-1] (sb) (Entered: 08/31/1999)
08/30/1999	13	AFFIDAVIT of Teresa A. Hampton in support of motion to modify scheduling order [10-1] (sb) (Entered: 08/31/1999)
09/03/1999	14	RESPONSE to petitioner's motion for extension of time [10-1] (sb)
09/13/1999	15	REPLY in support of petitioner's motion for extension of time [10-1] (sb) (Entered: 09/14/1999)
09/17/1999	16	ORDER by Honorable B. Lynn Winmill granting motion for extension of time [10-1] (cc: all counsel) (sb) (Entered: 09/20/1999)
01/20/2000	17	PETITION FOR WRIT OF HABEAS CORPUS by a person in state custody (sb) (Entered: 01/21/2000)
02/04/2000	18	FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS by a Person in State Custody (sb) (Entered: 02/07/2000)
02/24/2000	19	MOTION by res Dave Pasket to extend time to answer (dkh) (Entered: 02/28/2000)
02/24/2000	20	AFFIDAVIT of L LaMont Anderson filed by res Dave Pasket in support of motion to extend time to answer [19-1] (dkh) (Entered: 02/28/2000)
03/08/2000	21	ORDER by Honorable B. Lynn Winmill granting motion to extend time to answer [19-1] until 5/5/00 (cc: all counsel) (sb) (Entered: 03/09/2000)
03/15/2000	22	ORDER by Honorable B. Lynn Winmill granting motion to lodge presentence report under seal of the court [8-1] (cc: all counsel) (sb) (Entered: 03/17/2000)
05/05/2000	23	SECOND MOTION by respondent to extend time to file answer (sb) (Entered: 05/10/2000)
05/05/2000	24	AFFIDAVIT of L. LaMont Anderson regarding motion to extend time to file answer [23-1] (sb) (Entered: 05/10/2000)
05/12/2000	25	SUPPLEMENTAL NOTICE by Respondent of Lodging of State Records - Transcripts of Depos of Keith George and Brad Shannon Miller (sb) (Entered: 05/16/2000)
05/12/2000	26	ANSWER by respondent to first amended petition for writ of habeas corpus (sb) (Entered: 05/16/2000)

05/16/2000	27	ORDER by Honorable B. Lynn Winmill granting motion to extend time to file answer [23-1] to be filed 5/12/00 (cc: all counsel) (sb)
05/31/2000		FILE DIVISION - File # 2 begins with document # 28 (sb) (Entered: 06/21/2000)
06/01/2000	28	NOTICE by petitioner of filing state post-convictions petition (sb) (Entered: 06/02/2000)
06/08/2000	29	MOTION by petitioner for extension of time to file Traverse and Brief on Procedural Default (sb) (Entered: 06/12/2000)
06/08/2000	30	DECLARATION of Joan M. Fisher in support of motion for extension of time to file Traverse and Brief on Procedural Default [29-1] (sb) (Entered: 06/12/2000)
06/08/2000	31	MOTION by petitioner to stay further federal proceedings pending state proceedings (sb) (Entered: 06/12/2000)
06/08/2000	32	MEMORANDUM in support of motion to stay further federal proceedings pending state proceedings [31-1] (sb) (Entered: 06/12/2000)
06/22/2000	33	NOTICE of No-Objection by respondent to motion for extension of time to file Traverse and Brief on Procedural Default [29-1] (sb) (Entered: 06/23/2000)
06/22/2000	34	RESPONSE by respondent to motion to stay further federal proceedings pending state proceedings [31-1] (sb) (Entered: 06/23/2000)
07/10/2000	35	REPLY by petitioner in support of motion to stay further federal proceedings pending state proceedings [31-1] (sb) (Entered: 07/13/2000)
07/12/2000	36	MOTION by petitioner for injunctive relief from policy allowing prison officials to monitor attorney-client telephone calls and to compel prison officials to disclose any recorded conversations (sb) (Entered: 07/14/2000)
07/12/2000	37	MEMORANDUM in support of motion for injunctive relief from policy allowing prison officials to monitor attorney-client telephone calls and to compel prison officials to disclose any recorded conversations [36-1] (sb) (Entered: 07/14/2000)
07/17/2000	38	ORDER by Honorable B. Lynn Winmill granting motion to stay further federal proceedings pending state proceedings; stay granted for a period of 90 days [31-1] (cc: all counsel) (sb) (Entered: 07/24/2000)
07/17/2000	39	ORDER by Honorable B. Lynn Winmill granting motion for extension of time to file Traverse and Brief on Procedural Default [29-1]; Traverse and Brief due 10 days following expiration of stay of proceedings (cc: all counsel) (sb) (Entered: 07/24/2000)
07/31/2000	40	RESPONSE by respondent to motion for injunction and disclosure of recorded conversations [36-1] (sb)
07/31/2000	41	AFFIDAVIT of Deborah A. Shields [40-1] (sb)
08/04/2000	42	MOTION by petitioner for extension of time to file request for evidentiary hearing (sb) (Entered: 08/07/2000)
08/04/2000	43	MEMORANDUM in support of motion for extension of time to file request for evidentiary hearing [42-1] (sb) (Entered: 08/07/2000)
08/15/2000	44	RESPONSE by respondent to motion for extension of time to file request for evidentiary hearing [42-1] (wm) (Entered: 08/16/2000)

08/16/2000	45	REPLY by petitioner in support of motion for injunctive relief from policy allowing prison officials to monitor attorney-client telephone calls and to compel prison officials to disclose any recorded conversations [36-1] (sb) (Entered: 08/21/2000)
09/01/2000	46	MOTION by petitioner to consolidate hearing re Motion for Injunctive Relief (sb) (Entered: 09/07/2000)
09/01/2000	47	MEMORANDUM in support of motion to consolidate hearing re Motion for Injunctive Relief [46-1] (sb) (Entered: 09/07/2000)
09/08/2000	48	ORDER by Honorable B. Lynn Winmill granting motion for extension of time for 30 days after the filing of the traverse to file request for evidentiary hearing [42-1] (cc: all counsel) (wm) (Entered: 09/12/2000)
09/08/2000	49	AFFIDAVIT of Lisa Cates filed by respondent regarding motion for injunctive relief [36-1] (sb) (Entered: 09/12/2000)
09/26/2000	50	ORDER by Honorable B. Lynn Winmill denying motion for injunctive relief from policy allowing prison officials to monitor attorney-client telephone calls and to compel prison officials to disclose any recorded conversations [36-1] as moot; motion to consolidate hearing deemed moot [46-1] (cc: all counsel) (sb)
10/02/2000	55	NOTICE of Non-Objection by respondent to motion for extension of time to file traverse, procedural default brief and request for evidentiary hearing [53-1] (sb) (Entered: 10/27/2000)
10/19/2000	51	MOTION by petitioner to renew and extend stay of further federal proceedings pending state proceedings (sb) Modified on 12/04/2000 (Entered: 10/23/2000)
10/19/2000	52	MEMORANDUM in support of motion to extend and renew stay of federal proceedings pending state proceedings [51-1] (sb) Modified on 12/04/2000 (Entered: 10/23/2000)
10/19/2000	53	MOTION by petitioner for extension of time to file traverse, procedural default brief and request for evidentiary hearing (sb) (Entered: 10/23/2000)
10/19/2000	54	MEMORANDUM in support of motion for extension of time to file traverse, procedural default brief and request for evidentiary hearing [53-1] (sb) (Entered: 10/23/2000)
10/31/2000	56	ORDER by Honorable B. Lynn Winmill granting motion for stay of federal proceedings [51-1]; traverse, procedural default brief and request for evidentiary hearing shall be due within 15 days after expiration of the stay [53-1] (cc: all counsel) (sb) (Entered: 11/01/2000)
01/04/2001	57	MOTION by petitioner for access to petitioner by mental health expert (sb) (Entered: 01/08/2001)
01/04/2001	58	MEMORANDUM in support of motion for access to petitioner by mental health expert [57-1] (sb) (Entered: 01/08/2001)
01/10/2001	59	RESPONSE by respondent to petitioner's motion for access to petitioner by mental health expert [57-1] (sb) Modified on 06/22/2001 (Entered: 01/11/2001)
01/10/2001	61	REPLY by petitioner to state's response to petitioner's motion for access to petitioner by mental health expert [57-1] (sb) (Entered: 01/16/2001)

01/11/2001	60	ORDER by Honorable B. Lynn Winmill granting motion for access to petitioner by mental health expert [57-1] (cc: all counsel) (sb)
01/16/2001	62	MOTION by petitioner to renew and extend stay further federal proceedings pending state proceedings (sb) (Entered: 01/17/2001)
01/16/2001	63	MEMORANDUM in support of motion to renew and extend stay further federal proceedings pending state proceedings (sb) (Entered: 01/17/2001)
01/19/2001	64	RESPONSE by respondent to petitioner's motion to renew and extend stay (sb) (Entered: 01/22/2001)
02/15/2001	65	ORDER by Honorable B. Lynn Winmill granting motion to renew and extend stay further federal proceedings pending state proceedings [62-1] for a period of 120 days (cc: all counsel) (sb) (Entered: 02/20/2001)
04/19/2001	66	PETITIONER'S STATUS REPORT of State proceedings during stay of Federal proceedings. (sb) (Entered: 04/23/2001)
05/01/2001		FILE DIVISION - File # 3 begins with document # 67 (sb) (Entered: 07/05/2001)
06/08/2001	67	MOTION by petitioner to renew and extend stay of further federal proceedings pending state proceedings (sb) (Entered: 06/14/2001)
06/08/2001	68	MEMORANDUM in support of motion to renew and extend stay of further federal proceedings pending state proceedings (sb) (Entered: 06/14/2001)
06/19/2001	69	RESPONSE by respondent to petitioner's motion to renew and extend stay of further federal proceedings pending state proceedings (sb) (Entered: 06/20/2001)
07/27/2001	70	ORDER by Honorable B. Lynn Winmill granting motion to renew and extend stay of further federal proceedings for an additional 120 days [67-1] (cc: all counsel) (sb) (Entered: 07/31/2001)
10/10/2001	71	MOTION by petitioner for stay of proceedings (sb) (Entered: 10/11/2001)
10/23/2001	72	RESPONSE by respondent to petitioner's motion for stay of proceedings [71-1] (sb) (Entered: 10/24/2001)
11/30/2001	73	ORDER by Honorable B. Lynn Winmill granting motion for stay of proceedings [71-1]; matter stayed for a period of 120 days (cc: all counsel) (sb) (Entered: 12/04/2001)
04/01/2002	74	MOTION by petitioner to renew and extend stay of further federal proceedings pending state proceedings (sb) (Entered: 04/04/2002)
04/01/2002	75	MEMORANDUM in support of motion to renew and extend stay of further federal proceedings pending state proceedings (sb) (Entered: 04/04/2002)
04/03/2002	76	RESPONSE by respondent to motion to renew and extend stay of further federal proceedings pending state proceedings [74-1] (sb) (Entered: 04/04/2002)
04/05/2002	77	ORDER by Honorable B. Lynn Winmill granting motion to renew and extend stay of further federal proceedings state proceedings [74-1]; stay extended for a period of 120 days (cc: all counsel) (sb)
08/05/2002	78	REQUEST by attorney for petitioner to appear in state court (sb) (Entered: 08/08/2002)

08/05/2002	79	NOTICE by petitioner of filing state post-conviction petition (sb) (Entered: 08/08/2002)
08/07/2002	80	MOTION by petitioner to renew and extend stay of further federal proceedings pending state proceedings (sb) (Entered: 08/13/2002)
08/07/2002	81	MEMORANDUM by petitioner in support of motion to renew and extend stay of further federal proceedings pending state proceedings [80-1] (sb) (Entered: 08/13/2002)
08/26/2002	82	RESPONSE by respondent to motion to renew and extend stay of further federal proceedings pending state proceedings [80-1] (sb) (Entered: 08/27/2002)
08/26/2002	83	MOTION by respondent to vacate order holding habeas case in abeyance (sb) (Entered: 08/27/2002)
08/26/2002	84	BRIEF in support of motion to vacate order holding habeas case in abeyance [83-1] (sb) (Entered: 08/27/2002)
08/26/2002	85	MOTION by respondent to lodge state court records under seal of the court (sb) (Entered: 08/27/2002)
08/26/2002	86	NOTICE by respondent of supplemental lodging of state court records. (Filed under Seal) (sb) (Entered: 08/27/2002)
09/13/2002	87	MOTION by petitioner to extend time to file reply (sb) (Entered: 09/23/2002)
09/16/2002	88	NOTICE by respondent of Non-objection to motion to extend time to file reply [87-1] (sb) (Entered: 09/23/2002)
09/19/2002	90	NOTICE by petitioner of Objection to State's motion to lodge state court records under seal of the court [85-1] (sb) (Entered: 09/30/2002)
09/19/2002	91	REPLY by petitioner to State's Response to motion to renew and extend stay of further federal proceedings pending state proceedings (sb) (Entered: 09/30/2002)
09/25/2002	89	REPLY BRIEF by respondent in support of motion to vacate order holding habeas case in abeyance [83-1] (sb) (Entered: 09/26/2002)
10/01/2002	92	ORDER by Honorable B. Lynn Winmill granting motion to appear in state court [78-1] with restrictions (cc: all counsel) (sb)
10/02/2002	93	ORDER by Honorable B. Lynn Winmill granting motion to extend time to file reply [87-1] (cc: all counsel) (sb) (Entered: 10/03/2002)
10/02/2002	94	ORDER by Honorable B. Lynn Winmill granting motion to vacate order holding habeas case in abeyance [83-1] (cc: all counsel) (sb) (Entered: 10/03/2002)
10/07/2002	95	ORDER by Honorable B. Lynn Winmill denying motion to lodge state court records under seal of the court [85-1] (cc: counsel) (sb) (Entered: 10/09/2002)
10/09/2002		REMARK--Lodged state documents placed in 4th floor Exhibit room (sb) Modified on 10/09/2002
10/15/2002	96	MOTION by petitioner to vacate July 17, 2000 order , to schedule case management conference , and to amend First Amended Petition for Writ of Habeas Corpus (sb) (Entered: 10/21/2002)

10/15/2002	97	AFFIDAVIT of Joan M. Fisher in support of motion to vacate July 17, 2000 order [96-1], to schedule case management conference [96-2] and to amend First Amended Petition for Writ of Habeas Corpus [96-3] (sb) (Entered: 10/21/2002)
10/17/2002	98	RESPONSE by respondent to motion to vacate July 17, 2000 order [96-1], to schedule case management conference [96-2] and to amend First Amended Petition for Writ of Habeas Corpus [96-3] (sb) (Entered: 10/21/2002)
10/23/2002	99	ORDER by Honorable B. Lynn Winmill granting motion to vacate July 17, 2000 order [96-1], to schedule case management conf [96-2] and to amend First Amended Petition for Writ of Habeas Corpus [96-3] Phase V Case Management Hrg set for 8:30 AM on 2/25/03 (cc: all counsel) (sb)
02/01/2003	100	MOTION by petitioner to file out of time Second Amended Petition for Writ of Habeas Corpus (sb) (Entered: 02/05/2003)
02/01/2003	101	DECLARATION of Joan M. Fisher in support of motion to file out of time Second Amended Petition for Writ of Habeas Corpus [100-1] (sb) (Entered: 02/05/2003)
02/01/2003	102	SECOND AMENDED Petition for Writ of Habeas Corpus by a Person in State Custody [18-1] (sb) (Entered: 02/05/2003)
02/03/2003	103	NOTICE by respondent of Non-Objection to motion to file out of time Second Amended Petition for Writ of Habeas Corpus [100-1] (sb) (Entered: 02/05/2003)
02/11/2003	104	ORDER by Honorable B. Lynn Winmill granting motion to file out of time Second Amended Petition for Writ of Habeas Corpus [100-1] (cc: all counsel) (sb) (Entered: 02/12/2003)
02/19/2003	105	MOTION by respondent to Seal Confidential Case Evaluation Form (sb) (Entered: 02/20/2003)
02/25/2003	106	MINUTES OF CASE MGT CONF BLW (sb) (Entered: 02/26/2003)
03/28/2003	108	MOTION by petitioner for order of access to petitioner by expert - mitigation expert (sb) (Entered: 03/31/2003)
03/28/2003	109	DECLARATION of Joan M. Fisher in support of motion for order of access to petitioner by expert - mitigation expert [108-1] (sb) (Entered: 03/31/2003)
03/31/2003	107	CASE MANGEMENT ORDER by Honorable B. Lynn Winmill (cc: all counsel) (sb)
04/03/2003	110	NOTICE of NON-OBJECTION by respondent to motion for order of access to petitioner by expert - mitigation expert [108-1] (sb)
04/10/2003	111	RESPONSE by respondent to court's court management order [107-1] (sb) (Entered: 04/11/2003)
04/11/2003	112	RESPONSE by petitioner to court's case management order [107-1] (sb) (Entered: 04/14/2003)
04/15/2003	113	ORDER by Honorable Edward J. Lodge granting motion for order of access to petitioner by expert - mitigation expert [108-1]; order granting sealing of confidential case form [105-1] (cc: all counsel) (sb)
05/20/2003	114	ORDER by Honorable B. Lynn Winmill vacating order of 12/12/03 allowing filinf of second amended Petition [104-1]; vacating portion of order entered 10/1/02 re motion for stay [92-1]; granting motion for stay [80-1]; petitioner shall have opportunity to

		file amended petition when stay is lifted, petitioner shall file quarterly status reports (cc: all counsel) (sb) (Entered: 05/21/2003)
06/04/2003	115	MOTION by respondent to reconsider order (sb) (Entered: 06/05/2003)
06/04/2003	116	BRIEF in support of respondent's motion to reconsider order [115-1] (sb) (Entered: 06/05/2003)
06/09/2003	117	ORDER by Honorable B. Lynn Winmill denying motion to reconsider order [115-1] (cc: all counsel) (sb)
08/20/2003	118	STATUS REPORT by petitioner of State Court Proceedings (sb) (Entered: 08/25/2003)
11/19/2003	119	STATUS REPORT by petitioner of State Court Proceedings (sb) (Entered: 11/24/2003)
02/17/2004	120	STATUS REPORT by petitioner of State Court Proceedings (sb) (Entered: 02/20/2004)
05/21/2004	121	STATUS REPORT by petitioner of State Court Proceedings (sb) (Entered: 05/26/2004)
08/30/2004	122	STATUS REPORT by petitioner of State Court Proceedings (sb) (Entered: 09/02/2004)
11/16/2004	123	STATUS REPORT by petitioner of state court proceedings (sb) (Entered: 11/19/2004)
12/02/2004	124	ORDER by Honorable B. Lynn Winmill regarding objections to lifting of stay (cc: all counsel) (sb) (Entered: 12/06/2004)
12/10/2004	125	NOTICE OF OBJECTION by petitioner to lifting of stay [124-1] (sb) (Entered: 12/14/2004)
12/13/2004	126	NOTICE by respondent of Non-Objection to the Court's proposed lifting of stay [124-1] (sb) (Entered: 12/14/2004)
01/07/2005	127	ORDER VACATING STAY in Federal Case; Case Management Conference set for 1/28/2005 10:30 AM in Boise, ID before Honorable B. Lynn Winmill; Petitioner shall file a new Phase III Case Budget. Signed by Judge B. Lynn Winmill. (sb,) (Entered: 01/10/2005)
01/28/2005	128	Minute Entry for proceedings held before Judge B. Lynn Winmill : Scheduling Conference held on 1/28/2005. Court will issue an appropriate scheduling order. (Court Reporter Stacy Heinz.) (lg,)
02/04/2005	129	CASE MANAGEMENT ORDER. Signed by Judge B. Lynn Winmill. (dkh,) (Entered: 02/07/2005)
03/24/2005	130	SEALED ORDER by Honorable B. Lynn Winmill. (ja,)
03/24/2005	131	Second PETITION for Writ of Habeas Corpus <i>By a Person in State Custody</i> (Filing fee \$ 5.), filed by Thomas Eugene Creech. (Attachments: # 1 Appendix Appendix A, B & C)(Fisher, Joan)
03/24/2005	132	AFFIDAVIT of Thomas E. Creech re 131 Petition for Writ of Habeas Corpus filed by Thomas Eugene Creech <i>Verification of Second Amended Petition</i> . (Fisher, Joan)
05/23/2005	133	MOTION to Dismiss <i>Teague-Barred Claims</i> by Dave Pasket. Responses due by 6/16/2005 (Attachments: # 1 Brief in Support of Respondent's Motion to Dismiss <i>Teague-Barred Claims</i>)(Anderson, L)

05/23/2005	134	MOTION to Dismiss <i>Procedurally Defaulted Claims</i> by Dave Pasket. Responses due by 6/16/2005 (Attachments: # 1 Brief in Support of Respondent's Motion to Dismiss Procedurally Defaulted Claims)(Anderson, L)
06/28/2005	135	MOTION Order for Access to Petitioner by Mental Health Expert by Thomas Eugene Creech. Responses due by 7/22/2005 (Attachments: # 1 Declaration of Support) (Fisher, Joan)
06/30/2005	136	RESPONSE to Motion re 135 MOTION Order for Access to Petitioner by Mental Health Expert <i>Notice of Non-Objection to Petitioner's Motion for Order of Access</i> filed by Dave Pasket. (Anderson, L)
07/06/2005	137	AMENDED 135 MOTION for Order for Access to Petitioner by Mental Health Expert by Thomas Eugene Creech. Responses due by 8/1/2005 (Hampton, Teresa) Modified on 7/7/2005 (sb,).
07/07/2005	138	ORDER granting 137 Amend Motion for Access to Petitioner; original motion 135 deemed moot . Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,)
07/15/2005	139	First MOTION for Discovery by Thomas Eugene Creech. Responses due by 8/8/2005 (Attachments: # 1 Attachment# 2 Memorandum in Support)(Hampton, Teresa)
07/18/2005	140	MOTION for Extension of Time to File Response/Reply as to 134 MOTION to Dismiss <i>Procedurally Defaulted Claims</i> by Thomas Eugene Creech. Responses due by 8/11/2005 (Attachments: # 1 Memorandum in Support Of Motion to Extend Time to File Petitioner's Response...)(Fisher, Joan)
07/22/2005	141	MEMORANDUM in Opposition re 133 MOTION to Dismiss <i>Teague-Barred Claims</i> filed by Thomas Eugene Creech. (Fisher, Joan)
07/25/2005	142	ORDER granting 140 Motion for Extension of Time to File Response re 134 MOTION to Dismiss <i>Procedurally Defaulted Claims</i> . Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,)
08/04/2005	143	RESPONSE to Motion 139 for Discovery filed by Dave Pasket. (Anderson, L) Modified on 8/5/2005 (sb,).
08/04/2005	144	REPLY to Response re 133 MOTION to Dismiss <i>Teague-Barred Claims</i> filed by Dave Pasket. (Anderson, L) Modified on 8/5/2005 (sb,).
08/18/2005	145	REPLY to Response to Motion re 139 First MOTION for Discovery filed by Thomas Eugene Creech. (Hampton, Teresa)
10/14/2005	146	ORDER denying 139 Motion for Discovery; Petitioner shall file reponse to Motion to Dismiss Defaulted Claims w/i 30 days, reply due w/i 20 days; John Hardison will be substituted in for Dave Paskett. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,) (Entered: 10/17/2005)
11/10/2005	147	MOTION for Extension of Time to File Response/Reply by Thomas Eugene Creech. Responses due by 12/5/2005 (Attachments: # 1 Declaration of Joan Fisher in Support of Motion)(Fisher, Joan) Modified on 11/14/2005 (sb,).

11/10/2005	148	RESPONSE to Motion re 147 MOTION for Extension of Time to File Response/Reply <i>Notice of Non-Objection to Petitioner's Motion for Extension of Time to Respond to Motion for Procedural Default</i> filed by John Hardison. (Anderson, L)
11/21/2005	149	ORDER granting 147 Motion for Extension of Time to File Response re 134 MOTION to Dismiss <i>Procedurally Defaulted Claims</i> Responses due by 12/14/2005. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,)
12/14/2005	150	MOTION for Extension of Time to File Response to Motion for Procedural Default 133 by Thomas Eugene Creech. Responses due by 1/7/2006 (Attachments: # 1 Declaration of Joan Fisher in Support of Motion)(Fisher, Joan) Modified on 12/15/2005 (sb,).
12/16/2005	151	RESPONSE to Motion re 150 MOTION for Extension of Time to File Response/Reply <i>Notice of Non-Objection to Petitioner's Motion for Extension of Time</i> filed by John Hardison. (Anderson, L)
12/19/2005	152	MOTION for Leave to File Excess Pages / <i>Motion to file Overlength Brief</i> by Thomas Eugene Creech. Responses due by 1/12/2006 (Attachments: # 1 Declaration of Joan Fisher)(Fisher, Joan) Modified on 12/20/2005 (sb,).
12/19/2005	153	RESPONSE to Motion re 134 MOTION to Dismiss <i>Procedurally Defaulted Claims</i> filed by Thomas Eugene Creech. (Fisher, Joan)
12/23/2005	154	ORDER granting 150 Motion for Extension of Time to File Response to 134 MOTION to Dismiss <i>Procedurally Defaulted Claims</i> . Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,)
01/04/2006	155	RESPONSE to Motion re 152 MOTION for Leave to File Excess Pages / <i>Motion to file Overlength Brief Notice of Non-Objection to Petitioner's Motion to File Oversize Brief</i> filed by John Hardison. Replies due by 1/19/2006. (Anderson, L)
01/04/2006	156	ORDER granting in part and denying in part 152 Motion for Leave to File Excess Pages; Petitioner shall have 7 days to submit new brief that does not exceed 60 pages; respondent's reply shall not exceed 25 pages due w/i 20 days thereafter.. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,) (Entered: 01/05/2006)
01/17/2006	157	MEMORANDUM in Opposition re 134 MOTION to Dismiss <i>Procedurally Defaulted Claims Amended</i> filed by Thomas Eugene Creech. Replies due by 1/31/2006. (Hampton, Teresa)
02/06/2006	158	MOTION for Extension of Time to File Response/Reply as to 153 Response to Motion by John Hardison. Responses due by 3/2/2006 (Attachments: # 1 Affidavit)(Anderson, L)
02/06/2006	159	NOTICE by Thomas Eugene Creech re 158 MOTION for Extension of Time to File Response/Reply as to 153 Response to Motion (Fisher, Joan)
02/08/2006	162	ORDER granting 158 Motion for Extension of Time to File Response re 134 MOTION to Dismiss <i>Procedurally Defaulted Claims</i> Responses due by 2/20/2006. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,) (Entered: 02/08/2006)

		02/15/2006)
02/14/2006	160	Second MOTION for Discovery by Thomas Eugene Creech. Responses due by 3/10/2006 (Hampton, Teresa)
02/14/2006	161	MEMORANDUM/BRIEF re 160 Second MOTION for Discovery filed by Thomas Eugene Creech. (Hampton, Teresa)
02/21/2006	163	MOTION for Extension of Time to File Response/Reply as to 157 Memorandum in Opposition to Motion by John Hardison. Responses due by 3/17/2006 (Attachments: # 1 Affidavit)(Anderson, L)
02/23/2006	164	NOTICE by Thomas Eugene Creech re 163 MOTION for Extension of Time to File Response/Reply as to 157 Memorandum in Opposition to Motion <i>Notice of Non-Objection</i> (Fisher, Joan)
02/27/2006	165	DOCKET ENTRY ORDER - Pending before the Court is Respondents motion for an extension of time. (Docket No. 163). The Court having considered the pleadings shall grant the motion. It is hereby ordered that Respondents brief in support of Respondents motion to dismiss procedurally defaulted claims shall be filed on or before March 7, 2006. Signed by Judge B. Lynn Winmill. (sbh)
03/08/2006	166	NOTICE by John Hardison <i>Notice of Third Supplemental Lodging of State Court Records</i> (Anderson, L)
03/08/2006	167	MOTION for Extension of Time to File Response/Reply as to 157 Memorandum in Opposition to Motion by John Hardison. Responses due by 4/3/2006 (Attachments: # 1 Affidavit)(Anderson, L)
03/08/2006	168	MOTION for Leave to File Excess Pages by John Hardison. Responses due by 4/3/2006 (Anderson, L)
03/08/2006	169	REPLY to Response to Motion re 134 MOTION to Dismiss <i>Procedurally Defaulted Claims</i> filed by John Hardison. (Anderson, L)
03/10/2006	170	RESPONSE to Motion re 160 Second MOTION for Discovery filed by John Hardison. Replies due by 3/24/2006. (Anderson, L)
03/13/2006	171	DOCKET ENTRY ORDER - Pending before the Court are two motions filed by the Respondent -- the first is a Motion for an Extension of Time within which to file the state's Reply Brief (Docket No. 167); and the second is a Motion to File an Oversize Reply Brief (Docket No. 168). The Court having considered the pleadings shall grant both motions. The oversize Reply Brief shall be ordered filed. Signed by Judge B. Lynn Winmill. (sbh)
03/24/2006	172	REPLY to Response to Motion re 160 Second MOTION for Discovery filed by Thomas Eugene Creech. (Hampton, Teresa)
03/29/2006	173	MEMORANDUM DECISION AND ORDER granting in part and denying in part 133 Motion to Dismiss Teague-barred claims, conditionally granting in part and denying in part 134 Motion to Dismiss procedurally defaulted claims, granting in part and denying in part 160 Motion for Discovery; Pet to file a supplemental brief, which he may support with relevant material developed during discovery, demonstrating why cause and prejudice excuses the default of another habeas claim within 60 days; Within 30 days of receiving pet's supplement brief, res may file a supplemental response. Both the supplemental brief and supplemental response will be limited to 20 pages. No reply brief shall be filed . Signed by Judge B. Lynn Winmill. (caused to be

		mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by dkh,)
04/10/2006	174	NOTICE to Take Deposition of August H. Cahill on April 25, 2006 by Thomas Eugene Creech.(Fisher, Joan)
05/30/2006	175	MEMORANDUM/BRIEF re 157 Memorandum in Opposition to Motion filed by Thomas Eugene Creech <i>Supplemental Brief in Support of Cause and Prejudice</i> . (Attachments: # 1)(Fisher, Joan)
05/30/2006	176	NOTICE by Thomas Eugene Creech re 175 Memorandum/Brief (generic) <i>Notice of Lodging</i> (Fisher, Joan)
05/31/2006		Remark --Copy of Deposition of August Cahill lodged with court and located with Capital Case exhibits (sb,)
06/26/2006	177	MOTION for Extension of Time to File Response/Reply as to 175 Memorandum/Brief (generic) by John Hardison. Responses due by 7/20/2006 (Attachments: # 1 Affidavit) (Anderson, L)
06/26/2006	178	NOTICE by Thomas Eugene Creech re 177 MOTION for Extension of Time to File Response/Reply as to 175 Memorandum/Brief (generic) <i>Notice of Non-Objection</i> (Fisher, Joan)
06/30/2006	179	DOCKET ENTRY ORDER - Pending before the Court is Respondents Motion for an Extension of Time, filed June 26, 2006. (Docket No. 177). The Court having considered the pleadings shall grant the motion. It is hereby ordered that Respondents Response to Petitioners Supplemental Brief in Support of Cause and Prejudice is due on or before August 2, 2006. Signed by Judge B. Lynn Winmill. (sbh)
07/28/2006	180	RESPONSE to 175 Supplemental Brief (generic) filed by John Hardison <i>in Support of Cause and Prejudice</i> . (Anderson, L) Modified on 7/31/2006 (sb,).
10/16/2006	181	MEMORANDUM DECISION & ORDER 173 : the following Claims in the Second Amended Petition are DISMISSED with prejudice: 4(in part), 8, portions of 10 and 11, 13,16, 17,19,22(to extent it relies on the 8th Amendemtn), 29-32, 44 and 45; Respondent shall file an answer to Second Amended Petition w/i 45 days; Petitioner's brief due w/i 45 days thereafter, also any motions re additional evidentiary development; 30 days after receipt of brief, respondent shall file responsive brief, petitioner may reply w/i 20 days. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,)
11/28/2006	182	MOTION for Extension of Time to File Answer by John Hardison. Responses due by 12/22/2006 (Attachments: # 1 Affidavit)(Anderson, L)
11/28/2006	183	NOTICE by Thomas Eugene Creech <i>Notice of Non-Objection</i> (Fisher, Joan)
12/01/2006	184	DOCKET ENTRY ORDER - Pending before the Court is Respondent's Motion for Extension of Time. 182 . The Court having considered the pleadings, shall grant the Motion. Respondent's Answer shall be due on or before December 28, 2006. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
12/21/2006	185	MOTION for Extension of Time to File Answer by John Hardison. Responses due by 1/16/2007 (Attachments: # 1 Affidavit)(Anderson, L)

12/21/2006	186	NOTICE by Thomas Eugene Creech re 185 MOTION for Extension of Time to File Answer <i>Notice of Non-Objection</i> (Fisher, Joan)
12/28/2006	187	DOCKET ENTRY ORDER - Pending before the Court is Respondent's Motion for an Extension of Time to File an Answer. 185 . The Court having considered the pleadings shall grant the Motion. It is hereby ordered that Respondent's Answer shall be filed on or before January 29, 2007. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
01/29/2007	188	MOTION for Extension of Time to File Answer by John Hardison. Responses due by 2/22/2007 (Attachments: # 1 Affidavit)(Anderson, L)
01/30/2007	189	NOTICE by Thomas Eugene Creech re 188 MOTION for Extension of Time to File Answer <i>Notice of Non-Objection</i> (Fisher, Joan)
01/31/2007	190	DOCKET ENTRY ORDER - Pending before the Court is Respondent's Motion for Extension of Time. 188 The Court, having considered the pleadings, shall grant the Motion. Respondent's Answer shall be due on or before March 5, 2007. No additional extensions of time shall be permitted absent exceptional circumstances. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
03/05/2007	191	<i>Answer to Second Amended Petition for Writ of Habeas Corpus</i> RESPONSE to Petition for Writ of Habeas Corpus by John Hardison.(Anderson, L)
03/23/2007	192	MOTION for Reconsideration re 181 Memorandum Decision,, <i>re: scheduling order</i> by Thomas Eugene Creech. Responses due by 4/16/2007 (Hampton, Teresa)
04/03/2007	193	MOTION Access to Petitioner by Mental Health Expert by Thomas Eugene Creech. Responses due by 4/27/2007 (Attachments: # 1 Declaration)(Fisher, Joan)
04/06/2007	194	RESPONSE to Motion re 193 MOTION Access to Petitioner by Mental Health Expert <i>Notice of Non-Objection to Petitioner's Motion for Order of Access</i> filed by John Hardison. Replies due by 4/20/2007. (Anderson, L)
04/11/2007	195	RESPONSE to Motion re 192 MOTION for Reconsideration re 181 Memorandum Decision,, <i>re: scheduling order</i> filed by John Hardison. Replies due by 4/25/2007. (Anderson, L)
04/12/2007	196	REPLY to Response to Motion re 192 MOTION for Reconsideration re 181 Memorandum Decision,, <i>re: scheduling order</i> filed by Thomas Eugene Creech. (Hampton, Teresa)
04/13/2007	197	DOCKET ENTRY ORDER - Currently before the Court is Petitioners Motion to Amend Briefing and Motion Schedule. 192 Having considered the pleadings, the Court shall grant the motion in part and deny it in part. The Courts previous scheduling order (Docket No. 181, pp. 22-23) shall be amended as follows. By May 14, 2007, Petitioner shall file any motions for evidentiary development, which may include requests for discovery, expansion of the record, or an evidentiary hearing. Respondent shall submit a response on or before June 14, 2007, and Petitioners reply shall be filed on or before July 5, 2007. The Court is not persuaded by Petitioners argument that a request for discovery on the merits in this post-AEDPA case should be resolved before a motion for evidentiary hearing is filed. After all issues associated with evidentiary development are resolved, the Court will issue a new scheduling

		order for the filing of briefing on the merits of the remaining claims or other dispositive motions. Signed by Judge B. Lynn Winmill. (sbh)
04/20/2007	198	ORDER granting 193 Motion for Access to Petitioner by Mental Health Expert. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,)
05/14/2007	199	MOTION for Extension of Time to File <i>Motions for Evidentiary Development</i> by Thomas Eugene Creech. Responses due by 6/7/2007 (Attachments: # 1)(Fisher, Joan)
05/15/2007	200	Sealed Document <i>Ex Parte Motion</i> . (Attachments: # 1 Declaration 1# 2 Attachment 1-A# 3 Declaration 2# 4 Attachment 2-A# 5 Declaration 3)(Hampton, Teresa)
05/16/2007	201	DOCKET ENTRY ORDER - Currently before the Court is Petitioner's Motion for Extension of Time 199 . Having considered the pleadings, the Court shall grant the Motion. Petitioner's motion or motions for evidentiary development shall be due on or before June 13, 2007. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
06/13/2007	202	MOTION for Extension of Time to File <i>Motions for Evidentiary Development</i> by Thomas Eugene Creech. Responses due by 7/12/2007 (Attachments: # 1)(Fisher, Joan)
06/18/2007	203	RESPONSE to Motion re 202 MOTION for Extension of Time to File <i>Motions for Evidentiary Development Notice of Non-Objection to Petitioner's Motion for Extension of Time</i> filed by John Hardison. Replies due by 7/5/2007. (Anderson, L)
06/19/2007	204	SEALED MOTION by Thomas Eugene Creech. Responses due by 7/16/2007 (Hampton, Teresa)
06/20/2007	205	DOCKET ENTRY ORDER - Pending before the Court is Petitioner's Motion for an Extension of Time to File Motions for Evidentiary Development 202 . The Court having considered the pleadings, shall grant the Motion. Petitioner's motion shall be filed on or before July 13, 2007. Respondent's response shall be due on or before August 13, 2007. The optional reply is due on or before August 31, 2007. No further extensions shall be granted to Petitioner absent a showing of exceptional circumstances. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
06/20/2007		Reset Deadlines re Motions for Evidentiary Development: This is a court utility event only. Motions due by 7/13/2007. (sb,) (Entered: 06/21/2007)
06/25/2007	206	Sealed Document Re: 204 SEALED MOTION. (Anderson, L)
06/29/2007	207	SEALED ORDER granting 204 Motion. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,)
07/06/2007	208	Final MOTION for Extension of Time to File <i>Evidentiary Motions for Evidentiary Development</i> by Thomas Eugene Creech. Responses due by 8/2/2007 (Attachments: # 1 Declaration of Joan M. Fisher in Support of Motion for Extension of Time to File Motions for Evidentiary Development# 2 Declaration of Teresa A. Hampton in Support of Motion for Extension of Time to File Motions for Evidentiary Development)(Fisher, Joan)

07/10/2007	209	RESPONSE to Motion re 208 Final MOTION for Extension of Time to File <i>Evidentiary Motions for Evidentiary Development Notice of Non-Objection to Petitioner's Motion for Extension of Time</i> filed by John Hardison. Replies due by 7/27/2007. (Anderson, L)
07/17/2007	210	DOCKET ENTRY ORDER - Before the Court is Petitioner's Final Motion for an Extension of Time to File Motions for Evidentiary Development. 208 . Respondent is not opposed to the request. Having considered the pleadings, the Court shall grant the motion. Petitioner's Motion for Evidentiary Development shall be filed on or before August 13, 2007. Respondent's response shall be filed on or before September 13, 2007. The optional reply is due on or before September 27, 2007. No further extensions of time shall be granted to Petitioner. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
08/13/2007	211	MOTION for Hearing - <i>Evidentiary Hearing</i> by Thomas Eugene Creech. Responses due by 9/7/2007 (Attachments: # 1 Appendix Memorandum in Support# 2 Appendix Appendix A-1, Deposition of Robert Newhouse# 3 Appendix Appendix !-2, Deposition of Robert Newhouse, Part 2# 4 Appendix Appendix B, Order on Remand) (Fisher, Joan)
08/13/2007	212	DECLARATION of Joan M. Fisher re 211 MOTION for Hearing - <i>Evidentiary Hearing</i> filed by Thomas Eugene Creech. (Attachments: # 1 Appendix A-Declarations of Virginia Plageman & Billy Creech# 2 Appendix B- Capital Sentencing Study)(Fisher, Joan)
08/13/2007	213	MOTION to Take Judicial Notice by Thomas Eugene Creech. Responses due by 9/7/2007 (Attachments: # 1 Memorandum in Support # 2 Appendix Attachment A to Memorandum in Support of Motion to Take Judicial Notice)(Fisher, Joan)
08/13/2007	214	MOTION for Discovery by Thomas Eugene Creech. Responses due by 9/7/2007 (Attachments: # 1 Memorandum in Support # 2 Appendix Interrogatories)(Fisher, Joan)
09/13/2007	215	MOTION for Extension of Time to File Response/Reply as to 211 MOTION for Hearing - <i>Evidentiary Hearing</i> , 213 MOTION to Take Judicial Notice, 214 MOTION for Discovery by John Hardison. Responses due by 10/9/2007 (Attachments: # 1 Affidavit)(Anderson, L)
09/14/2007	216	NOTICE by Thomas Eugene Creech re 215 MOTION for Extension of Time to File Response/Reply: No Objection (Fisher, Joan) Modified on 9/17/2007 (sb,).
09/24/2007	217	DOCKET ENTRY ORDER - Before the Court is Respondent's Motion for Extension of Time. 215 Having considered the pleadings, the Court shall grant the motion. Respondent's responses to Petitioner's Motion for Evidentiary Hearing, Motion to Take Judicial Notice, and Motion for Leave to Conduct Discovery shall be filed on or before October 15, 2007. The optional replies shall be filed on or before November 5, 2007. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
10/15/2007	218	MOTION for Extension of Time to File Response/Reply as to 211 MOTION for Hearing - <i>Evidentiary Hearing</i> , 213 MOTION to Take Judicial Notice, 214 MOTION for Discovery by John Hardison. Responses due by 11/8/2007 (Attachments: # 1 Affidavit)(Anderson, L)

10/17/2007	219	NOTICE by Thomas Eugene Creech re 218 MOTION for Extension of Time to File Response/Reply as to 211 MOTION for Hearing - <i>Evidentiary Hearing</i> , 213 MOTION to Take Judicial Notice, 214 MOTION for Discovery MOTION for Extension of Time to File Response/Reply as to 211 MOTION for Hearing - <i>Evidentiary Hearing</i> , 213 MOTION to Take Judicial Notice, 214 MOTION for Discovery <i>od Non-Objection</i> (Fisher, Joan)
10/21/2007	220	DOCKET ENTRY ORDER - Before the Court is Respondent's Motion for Extension of Time 218 . Having considered the pleadings, the Court shall grant the motion. Respondent's responses to Petitioner's motions for judicial notice, discovery, and an evidentiary hearing shall be filed on or before October 29, 2007. Any replies shall be filed on or before November 19, 2007. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
10/25/2007	221	RESPONSE to Motion re 211 MOTION for Hearing - <i>Evidentiary Hearing</i> filed by John Hardison. Replies due by 11/13/2007. (Anderson, L)
10/25/2007	222	RESPONSE to Motion re 214 MOTION for Discovery filed by John Hardison. Replies due by 11/13/2007. (Anderson, L)
10/25/2007	223	RESPONSE to Motion re 213 MOTION to Take Judicial Notice filed by John Hardison. Replies due by 11/13/2007. (Anderson, L)
11/16/2007	224	MOTION for Extension of Time to File Response/Reply by Thomas Eugene Creech. Responses due by 12/10/2007 (Attachments: # 1 Declaration in Support)(Fisher, Joan)
11/19/2007	225	DOCKET ENTRY ORDER - Before the Court is Petitioner's Motion for Extension of Time 224 . Having considered the pleadings, the Court shall grant the motion. Petitioner's reply is due on or before December 20, 2007. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
12/20/2007	226	REPLY to Response to Motion re 214 MOTION for Discovery filed by Thomas Eugene Creech. (Fisher, Joan)
12/20/2007	227	REPLY to Response to Motion re 213 MOTION to Take Judicial Notice filed by Thomas Eugene Creech. (Fisher, Joan)
12/20/2007	228	REPLY to Response to Motion re 211 MOTION for Hearing - <i>Evidentiary Hearing</i> filed by Thomas Eugene Creech. (Attachments: # 1 Appendix A, B, C and D)(Fisher, Joan)
03/13/2008	229	MEMORANDUM DECISION and ORDER denying 211 Petitioner's Motion for Evidentiary Hearing, 213 Motion to Take Judicial Notice, and 214 Motion for Leave to conduct Discovery; no later than 4/29/08, petitioner shall file a brief containing points and authorities on the merits of all non-dismissed claims. Petitioner shall also address any remaining Teague issues. Responses and optional reply are due thereafter. Court advises it will not grant any extensions of time abset a showing of exceptional circumstances.. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb,)
04/25/2008	230	MOTION to Stay <i>Pending Appointment of Substitute Counsel</i> Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 5/19/2008

		(Hampton, Teresa)
04/25/2008	231	MOTION to Substitute Attorney Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 5/19/2008 (Hampton, Teresa)
04/25/2008	232	DECLARATION of Bruce Livingston re 231 MOTION to Substitute Attorney filed by Thomas Eugene Creech. (Hampton, Teresa)
04/25/2008	233	DECLARATION of Teresa A. Hampton re 230 MOTION to Stay <i>Pending Appointment of Substitute Counsel</i> , 231 MOTION to Substitute Attorney filed by Thomas Eugene Creech. (Attachments: # 1 Exhibit)(Hampton, Teresa)
05/06/2008	234	RESPONSE to Motion re 231 MOTION to Substitute Attorney <i>Notice of Non-Objection</i> filed by John Hardison. Replies due by 5/23/2008.(Anderson, L)
05/06/2008	235	RESPONSE to Motion re 230 MOTION to Stay <i>Pending Appointment of Substitute Counsel</i> filed by John Hardison. Replies due by 5/23/2008.(Anderson, L)
05/23/2008	236	REPLY to Response to Motion re 230 MOTION to Stay <i>Pending Appointment of Substitute Counsel</i> filed by Thomas Eugene Creech.(Hampton, Teresa)
06/17/2008	237	ORDER granting 231 Motion for Substitute Attorney. Teresa Hampton will be Lead Counsel; Denise Young will be added as Co-counsel for Thomas Eugene Creech (Attorney Joan M Fisher terminated); Motion for Stay construed as Motion for extension of Time and is granted 230 - Petitioner shall file brief on merits on or before 9/15/08, response due 10/29/08, optional reply due 11/19/08. Attorneys to submit ex parte any budget admendments. Capital Habeas Unit will remain in case to serve in a limited capacity. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sb)
08/29/2008	238	SEALED ORDER. Signed by Judge B. Lynn Winmill. (jlg) cc Teresa Hampton and Denise Young via email by jlg.
09/10/2008	239	MOTION for Extension of Time to File <i>Brief on the Merits</i> Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 10/6/2008 (Hampton, Teresa)
09/10/2008	240	DECLARATION of Teresa A. Hampton re 239 MOTION for Extension of Time to File <i>Brief on the Merits</i> filed by Thomas Eugene Creech. (Hampton, Teresa)
09/11/2008	241	SUPPLEMENT by Petitioner Thomas Eugene Creech re 239 MOTION for Extension of Time to File <i>Brief on the Merits</i> . (Hampton, Teresa)
09/12/2008	242	DOCKET ENTRY ORDER - Pending before the Court is Petitioner's unopposed Motion for Extension of Time 239 . Having considered the matter, the Court shall grant the motion. Petitioner's brief on the merits is due on or before October 3, 2008. The brief shall be filed by the due date, or the Court may consider the matter to have been submitted on the current pleadings and the record. D. Idaho L. R. 9.2(f)(7)(B). Respondent's response is due on or before December 3, 2008. Petitioner's optional reply shall be filed on or before December 24, 2008. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
10/03/2008	243	MOTION for Leave to File Excess Pages Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 10/27/2008 (Hampton, Teresa)

10/03/2008	244	DECLARATION of Counsel re 243 MOTION for Leave to File Excess Pages filed by Thomas Eugene Creech. (Hampton, Teresa)
10/03/2008	245	MEMORANDUM/BRIEF filed by Thomas Eugene Creech <i>Brief on the Merits</i> . (Attachments: # 1 Appendix, # 2 Appendix)(Hampton, Teresa)
10/07/2008	247	DOCKET ENTRY ORDER - Pending before the Court is Petitioner's Motion to File Brief in Excess of Sixty Pages 243 . Having considered the matter, the Court shall grant the motion. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
12/02/2008	248	MOTION for Extension of Time to File L LaMont Anderson appearing for Respondent John Hardison. Responses due by 12/26/2008 (Attachments: # 1 Affidavit)(Anderson, L)
12/04/2008	249	DOCKET ENTRY ORDER - Pending before the Court is Respondent's unopposed Motion for Extension of Time 248 . Having considered the matter, the Court shall grant the motion. Respondent's merits brief shall be filed on or before February 2, 2009. Petitioner reply, if any, shall be filed on or before February 23, 2009. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
12/15/2008	250	STIPULATION re 249 Order on Motion for Extension of Time to File, <i>Response and Reply Briefs</i> by Thomas Eugene Creech. (Hampton, Teresa)
12/15/2008	251	DECLARATION of Teresa A. Hampton re 250 Stipulation filed by Thomas Eugene Creech. (Hampton, Teresa)
12/23/2008	252	DOCKET ENTRY ORDER - Before the Court is the parties' Stipulation to Extend Briefing Schedule 250 . Having considered the matter, the Court shall grant the stipulation. Respondent's response to Petitioner's merits brief is due on or before February 27, 2009. Petitioner's reply is due on or before March 20, 2009. Signed by Judge B. Lynn Winmill. (sbh)
12/23/2008		Reset Deadlines as to Response to Merit's Brief due by 2/27/2009; Replies due by 3/20/2009. (sb) (Entered: 12/29/2008)
02/26/2009	253	MOTION for Extension of Time to File L LaMont Anderson appearing for Respondent John Hardison. Responses due by 3/23/2009 (Attachments: # 1 Affidavit) (Anderson, L)
03/05/2009	254	DOCKET ENTRY ORDER - Before the Court is Respondent's unopposed Motion for an Extension of Time 253 . Having considered the matter, the Court grants the Motion. Respondent's brief on the merits shall be filed on or before April 28, 2009. Petitioner's reply shall be filed within 21 days of receiving Respondent's brief. No further extensions shall be granted to Respondent absent a showing of exceptional circumstances. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
03/05/2009		Reset Deadlines as to Respondent's Brief on Merits due by 4/28/2009; Replies due by 5/19/2009. (sb) (Entered: 03/06/2009)

04/28/2009	255	MOTION for Extension of Time to File Response/Reply as to 245 Memorandum/Brief (generic) L LaMont Anderson appearing for Respondent John Hardison. Responses due by 5/22/2009 (Attachments: # 1 Affidavit)(Anderson, L)
04/28/2009	256	NOTICE by Thomas Eugene Creech re 255 MOTION for Extension of Time to File Response/Reply as to 245 Memorandum/Brief (generic) <i>Notice of Non-Opposition to Motion</i> (Hampton, Teresa)
05/20/2009	257	MOTION to Amend/Correct 255 MOTION for Extension of Time to File Response/Reply as to 245 Memorandum/Brief (generic) L LaMont Anderson appearing for Respondent John Hardison. Responses due by 6/15/2009 (Attachments: # 1 Affidavit)(Anderson, L)
05/26/2009	258	DOCKET ENTRY ORDER - Before the Court is Respondent's Amended Motion for Extension of Time 257 . Having considered the matter, the Court shall grant the motion. Respondent's brief on the merits shall be filed on or before June 19, 2009. Petitioner's reply is due within 21 days of receiving Respondent's brief. Respondent's Motion for Extension of Time 255 is deemed moot. No further extensions shall be granted to Respondent absent a showing of exceptional circumstances. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
05/26/2009		Set/Reset Deadlines as to 245 MEMORANDUM/BRIEF filed by Thomas Eugene Creech Brief on the Merits. (Attachments: # 1 Appendix, # 2 Appendix)(Hampton, Teresa) Responses due by 6/19/2009 Replies due by 7/10/2009. (dks) (Entered: 05/27/2009)
06/18/2009	259	MOTION for Extension of Time to File L LaMont Anderson appearing for Respondent John Hardison. Responses due by 7/13/2009 (Attachments: # 1 Affidavit) (Anderson, L)
06/18/2009	260	RESPONSE to Motion re 259 MOTION for Extension of Time to File filed by Thomas Eugene Creech. Replies due by 7/6/2009.(Hampton, Teresa)
07/06/2009	261	MOTION for Leave to File Excess Pages L LaMont Anderson appearing for Respondent John Hardison. Responses due by 7/30/2009 (Anderson, L)
07/06/2009	262	RESPONSE re 245 Memorandum/Brief (generic) filed by John Hardison <i>Respondent's Brief on the Merits and Response to Petitioner's Brief on the Merits</i> . (Anderson, L)
07/13/2009	263	RESPONSE to Motion re 261 MOTION for Leave to File Excess Pages filed by Thomas Eugene Creech. Replies due by 7/30/2009.(Hampton, Teresa)
07/14/2009	264	DOCKET ENTRY ORDER - Before the Court are Respondent's Motion for Extension of Time 259 and Respondent's Motion to File an Oversize Brief 261 . Having considered the parties' positions, the Court shall grant the motions. Respondent's Brief on the Merits 262 shall be deemed timely and properly filed. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
07/21/2009	265	MOTION for Extension of Time to File Response/Reply Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 8/14/2009 (Hampton, Teresa)
07/22/2009	266	DOCKET ENTRY ORDER - Pending before the Court is Petitioner's Motion for an Extension of Time to File a Reply Brief 265 . Having considered the matter, the Court shall grant the motion. Petitioner shall file his reply to Respondent's Brief on the

		Merits on or before September 25, 2009. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
09/22/2009	267	MOTION for Extension of Time to File Response/Reply Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 10/16/2009 (Hampton, Teresa)
09/23/2009	268	RESPONSE to Motion re 267 MOTION for Extension of Time to File Response/Reply <i>Notice of Non-Objection</i> filed by John Hardison. Replies due by 10/13/2009.(Anderson, L)
09/29/2009	269	DOCKET ENTRY ORDER - Pending before the Court is Petitioner's unopposed Motion for Extension of Time 267 . Having considered the matter, the Court shall grant the motion. Petitioner's reply is due on or before October 23, 2009. The Court shall not grant additional extensions of time to file a reply brief absent exceptional circumstances. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
10/23/2009	270	MOTION for Leave to File Excess Pages Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 11/16/2009 (Hampton, Teresa)
10/23/2009	271	REPLY re 262 Response(generic), 245 Memorandum/Brief (generic) filed by Thomas Eugene Creech <i>Petitioner's Reply Brief.</i> (Hampton, Teresa)
10/26/2009	272	RESPONSE to Motion re 270 MOTION for Leave to File Excess Pages filed by John Hardison. Replies due by 11/12/2009.(Anderson, L)
11/03/2009	273	DOCKET ENTRY ORDER granting 270 Motion for Leave to File Excess Pages. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by cd)
11/17/2009	274	NOTICE by John Hardison re 262 Response(generic) <i>Notice of Supplemental Authorities</i> (Anderson, L)
01/11/2010	275	DOCKET ENTRY NOTICE of Hearing - This matter is set for oral argument on the non-dismissed claims from the Second Amended Petition (Docket No. 131) on February 19, 2010, at 3:30 p.m. in Boise, ID before Judge B. Lynn Winmill. (jlg)
01/11/2010		Set Hearings: In Court Hearing set for 2/19/2010 03:30 PM in Boise, ID before Judge B. Lynn Winmill. (jlg)
02/19/2010	276	Minute Entry for proceedings held before Judge B. Lynn Winmill: Hearing on the non-dismissed claims of the Second Amended Petition held on 2/19/2010. Matter taken under advisement. (Court Reporter Tammy Hohenleitner.) (jlg) (Entered: 02/22/2010)
03/26/2010	277	Transcript of Proceedings (Oral Argument on Second Amended Petition) held on 2/19/10 before Judge B. Lynn Winmill. Court Reporter/Transcriber Tammy Hohenleitner, Telephone number (208) 334-1500. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. This transcript is not available to the general public and as such is sealed. Redaction Request due 4/19/2010. Redacted Transcript Deadline set for 4/29/2010. Release of Transcript Restriction set for 6/28/2010.(dks)

03/26/2010	278	Notice of Filing of Official Transcript (dks)
03/31/2010	279	MEMORANDUM DECISION AND ORDER that the second amended petition for writ of habeas corpus is denied. This case is dismissed with prejudice. The Court shall issue a certificate of appealability over the Court's resolution of Claims 2,3,4 (as limited herein), 25, and 27 in the second amended petition, including the Court's decision to deny additional discovery and an evidentiary hearing on any of these claims, if applicable. The Court shall not certify any other issue or claim for appeal.. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by dks)
03/31/2010	280	JUDGMENT dismissing case with prejudice. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by dks)
04/28/2010	281	MOTION to Alter Judgment Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 5/24/2010 (Hampton, Teresa)
05/14/2010	282	RESPONSE to Motion re 281 MOTION to Alter Judgment filed by John Hardison. Replies due by 6/1/2010.(Anderson, L)
06/09/2010	283	MEMORANDUM DECISION AND ORDER denying 281 Motion to Alter Judgment. Petitioner's request for a certificate of appealability over the Court's denial of claim 1, contained within the present Motion, is likewise DENIED. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by cjm) (Entered: 06/10/2010)
07/09/2010	284	NOTICE OF APPEAL as to 279 Memorandum Decision, Order, 283 Order on Motion to Alter Judgment, by Thomas Eugene Creech. (Notice sent to Court Reporter & 9th Cir) (Hampton, Teresa)(10-99015)
07/13/2010	285	USCA Case Number 10-99015 for 284 Notice of Appeal filed by Thomas Eugene Creech. (dks) (Entered: 07/15/2010)
07/13/2010	286	USCA Time Scheduling Order as to 284 Notice of Appeal filed by Thomas Eugene Creech. (Notice sent by e-mail to Court Reporter) (dks) (Entered: 07/15/2010)
10/13/2010	287	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech (cjm) (Entered: 10/14/2010)
09/23/2011	288	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech. (cjm)
11/28/2011	289	Transmitted Record on Appeal to US Court of Appeals re 284 Notice of Appeal via FedEx Ground tracking number 328892615000376. (cjm)
05/17/2012	290	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech, granting motion for extension of time. (cjm) (Entered: 05/18/2012)
06/01/2012	291	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech, granting motion to file oversized reply. (cjm) (Entered: 06/04/2012)
06/15/2012	292	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech. Petitioner-Appellants motion to file under seal attachments 1-4 of his reply to Respondent-Appellees response to his motion to remand is DENIED. (cjm)
06/20/2012	293	ORDER of USCA vacating and remanding District Court's decision as to 284 Notice of Appeal filed by Thomas Eugene Creech (dks)

07/03/2012	294	ORDER re 293 USCA Order vacating and remanding District Court's decision. Petitioner shall file a supplemental brief by 9/21/2012. Respondents shall file a response to the supplemental brief by 10/22/2012. Petitioners shall file a reply by 11/16/2012. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjm)
09/14/2012	295	MOTION to Seal Document Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 10/9/2012 (Hampton, Teresa)
09/14/2012	296	MOTION Stay Briefing and Request for Status Conference Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 10/9/2012 (Hampton, Teresa)
09/14/2012	297	Sealed Document Re: 295 MOTION to Seal Document , 296 MOTION Stay Briefing and Request for Status Conference . (Hampton, Teresa)
09/17/2012	298	DOCKET ENTRY ORDER. Petitioner's Motion to Stay Briefing Schedule and Request for Status Conference 296 is granted. A status conference is set for September 27, 2012, at 3:30 p.m. at the United States Courthouse in Boise. The briefing schedule 294 is stayed pending further order of the Court. Petitioner's Unopposed Motion to Seal Document 295 is granted. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cd)
09/18/2012		Set Hearings: Status Conference set for 9/27/2012 03:30 PM in Boise - Courtroom 3 before Judge B. Lynn Winmill. Per Order dkt #298.(cjm)
09/27/2012	299	Minute Entry for proceedings held before Judge B. Lynn Winmill: Status Conference held on 9/27/2012. A Status Conference is set for 10/10/2012 at 4:30 PM in Boise - Courtroom 3 before Judge B. Lynn Winmill. (ESR Trinidad Diaz.) (jlg)
09/28/2012	300	DECLARATION of Denise I. Young filed by Thomas Eugene Creech . (Hampton, Teresa)
10/03/2012	301	MOTION to Seal Document Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 10/29/2012 (Hampton, Teresa)
10/03/2012	302	MEMORANDUM/BRIEF filed by Thomas Eugene Creech <i>Supplemental Authority re Motion for Continuance</i> . (Hampton, Teresa)
10/03/2012	303	Sealed Document Re: 301 MOTION to Seal Document , 302 Memorandum/Brief (generic) <i>Sealed Declaration of Teresa A. Hampton</i> . (Hampton, Teresa)
10/09/2012	304	NOTICE by Thomas Eugene Creech re 302 Memorandum/Brief (generic), 300 Declaration, 299 Status Conference, Set Deadlines/Hearings,, <i>Updated Notice of Co-Counsel Availability</i> (Hampton, Teresa)
10/10/2012	305	Minute Entry for proceedings held before Judge B. Lynn Winmill: Status Conference held on 10/10/2012. A written decision is forthcoming. (ESR Trinidad Diaz.) (jlg)
10/15/2012	306	ORDER re 294 Order and granting 301 Motion to Seal Document. Petitioners brief on Martinez issues shall by 6/3/2013. Respondents response is due by 7/15/2013. Petitioners reply, if any, is due by 8/2/2013. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjm)

06/03/2013	307	MOTION to Seal Document (<i>Attachments to Supplemental Martinez Brief</i>) Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 6/27/2013 (Attachments: # 1 Memorandum in Support)(Hampton, Teresa)
06/03/2013	308	MEMORANDUM/BRIEF filed by Thomas Eugene Creech (<i>Supplemental Martinez Brief</i>). (Hampton, Teresa)
06/03/2013	309	Sealed Document Re: 308 Memorandum/Brief (generic), 307 MOTION to Seal Document (<i>Attachments to Supplemental Martinez Brief</i>) . (Attachments: # 1 Attachment 2, # 2 Attachment 3, # 3 Attachment 4, # 4 Attachment 5, # 5 Attachment 6, # 6 Attachment 7)(Hampton, Teresa)
06/20/2013	310	RESPONSE to Motion re 307 MOTION to Seal Document (<i>Attachments to Supplemental Martinez Brief</i>) <i>Notice of Non-Objection</i> filed by John Hardison. Replies due by 7/8/2013.(Anderson, L)
07/11/2013	311	MOTION for Extension of Time to File Response/Reply as to 308 Memorandum/Brief (generic) L LaMont Anderson appearing for Respondent John Hardison. Responses due by 8/5/2013 (Attachments: # 1 Affidavit)(Anderson, L)
07/11/2013	312	RESPONSE to Motion re 311 MOTION for Extension of Time to File Response/Reply as to 308 Memorandum/Brief (generic) <i>Notice of Non Objection</i> filed by Thomas Eugene Creech. Replies due by 7/29/2013.(Hampton, Teresa)
08/01/2013	313	ORDER granting 307 Motion to Seal Document; granting 311 Motion for Extension of Time to File Response/Reply. The Attachments (Dkt. 309) are hereby SEALED. Respondents response brief regarding Martinez v. Ryan shall now be due no later than 10/1/2013. Petitioners reply shall now be due no later than 12/2/2013. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjm)
10/01/2013	314	MOTION for Extension of Time to File Response/Reply as to 308 Memorandum/Brief (generic) L LaMont Anderson appearing for Respondent John Hardison. Responses due by 10/25/2013 (Attachments: # 1 Affidavit)(Anderson, L)
10/07/2013	315	RESPONSE re 308 Memorandum/Brief (generic) filed by John Hardison <i>Response to Petitioner's Supplemental Opeing Brief Regarding Martinez</i> . (Anderson, L)
10/07/2013	316	MOTION for Leave to File Excess Pages L LaMont Anderson appearing for Respondent John Hardison. Responses due by 10/31/2013 (Anderson, L)
11/26/2013	317	MOTION for Extension of Time to File Response/Reply as to 315 Response(generic) Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 12/20/2013 (Attachments: # 1 Affidavit of Teresa Hampton in Support of Motion for Extension of Time)(Hampton, Teresa)
12/16/2013	318	REPLY re 315 Response(generic) filed by Thomas Eugene Creech <i>Reply to Response to Supplemental Martinez Brief</i> . (Hampton, Teresa)
12/16/2013	319	MOTION for Leave to File Excess Pages Teresa A Hampton appearing for Petitioner Thomas Eugene Creech. Responses due by 1/9/2014 (Hampton, Teresa)
12/17/2013	320	RESPONSE to Motion re 319 MOTION for Leave to File Excess Pages filed by John Hardison. Replies due by 1/3/2014.(Anderson, L)

12/17/2013	321	RESPONSE to Motion re 317 MOTION for Extension of Time to File Response/Reply as to 315 Response(generic) filed by John Hardison. Replies due by 1/3/2014.(Anderson, L)
04/16/2014	322	ORDER granting 314 Motion for Extension of Time to File Response/Reply ; granting 316 Motion for Leave to File Excess Pages; granting 317 Motion for Extension of Time to File Response/Reply ; granting 319 Motion for Leave to File Excess Pages. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (sd)
06/19/2014	323	Appeal Record Returned: 285 USCA Case Number, 286 USCA Scheduling Order, 289 Appeal Record Sent to USCA, 290 USCA Order, 287 USCA Order, 292 USCA Order, 284 Notice of Appeal, 288 USCA Order, 293 USCA Order, 291 USCA Order. Received record from USCA for the 9th Circuit. Replaced on shelf in Clerk's Office. (cjm)
01/29/2016	324	NOTICE of Substitution - Attorney Deborah Anne Czuba for Thomas Eugene Creech added. Attorney Teresa A Hampton terminated. (Attachments: # 1 Declaration of Deborah Anne Czuba)(Czuba, Deborah)
01/29/2016	325	MEMORANDUM DECISION AND ORDER ON REMAND. Respondent Al Ramirez is SUBSTITUTED for his predecessor as Warden of the Idaho Maximum Security Institution. The Court reaffirms its previous dismissal of Claim 4, 100(a) as procedurally defaulted. The Court reaffirms its previous grant of a certificate of appealability with respect to its resolution of the merits of the non-defaulted aspects of Claims 2, 3, 4. The Court now grants an additional certificate of appealability on Claim 4. The Court will allow Petitioner to file a motion to reconsider within 28 days. If no such motion is filed, a new judgment will be entered. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjs) (Entered: 02/01/2016)
02/01/2016	326	NOTICE of Appearance by Jonah Horwitz on behalf of Thomas Eugene Creech (Horwitz, Jonah)
02/01/2016	327	NOTICE of Appearance by Bruce D Livingston on behalf of Thomas Eugene Creech (Livingston, Bruce)
02/12/2016	328	MOTION for Extension of Time to File <i>Motion for Reconsideration of Order on Remand</i> Deborah Anne Czuba appearing for Petitioner Thomas Eugene Creech. Responses due by 3/7/2016 (Attachments: # 1 Declaration of Denise Young, # 2 Declaration of Deborah A. Czuba, # 3 Declaration of Bruce D. Livingston, # 4 Declaration of Jonah J. Horwitz)(Czuba, Deborah)
02/12/2016	329	MOTION to Withdraw as Attorney. <i>Co-Counsel Denise Young</i> Request to Leave Noticing ON for this case by Attorney Deborah Anne Czuba appearing for Petitioner Thomas Eugene Creech. Responses due by 3/7/2016 (Czuba, Deborah)
02/18/2016	330	RESPONSE to Motion re 328 MOTION for Extension of Time to File <i>Motion for Reconsideration of Order on Remand</i> filed by Al Ramirez. Replies due by 3/7/2016. (Anderson, L)
02/19/2016	331	REPLY to Response to Motion re 328 MOTION for Extension of Time to File <i>Motion for Reconsideration of Order on Remand</i> filed by Thomas Eugene Creech.(Czuba, Deborah)

02/24/2016	332	ORDER granting 328 MOTION for Extension of Time to File <i>Motion for Reconsideration of Order on Remand</i> . Any motion for reconsideration shall be filed no later than 4/11/2016 (Case Management deadline set for 4/11/2016). No further extensions of time will be granted in this case. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjs)
02/24/2016		Attorney Oliver W. Loewy is no longer with the Federal Defender Services of Idaho and should be removed from electronic notice. Pursuant to current counsel Jonah Horwitz Mr. Loewy did not act as counsel in this matter. the Clerk's Office will terminate him as an active attorney and turn off electronic notice. (cjs)
03/09/2016	333	RESPONSE to Motion re 329 MOTION to Withdraw as Attorney. <i>Co-Counsel Denise Young</i> Request to Leave Noticing ON for this case by Attorney filed by Al Ramirez. Replies due by 3/28/2016.(Anderson, L)
04/11/2016	334	MOTION for Leave to File Excess Pages Deborah Anne Czuba appearing for Petitioner Thomas Eugene Creech. Responses due by 5/5/2016 (Attachments: # 1 Declaration of Jonah J. Horwitz In Support of Motion to File Memorandum In Excess of Thirty Pages)(Czuba, Deborah)
04/11/2016	335	MOTION to Seal Document (<i>Attachments to Memorandum In Support of Motion for Reconsideration of Order on Remand</i>) Deborah Anne Czuba appearing for Petitioner Thomas Eugene Creech. Responses due by 5/5/2016 (Czuba, Deborah)
04/11/2016	336	MOTION for Reconsideration re 325 Memorandum Decision,,, <i>Motion for Reconsideration of Order on Remand</i> Deborah Anne Czuba appearing for Petitioner Thomas Eugene Creech. Responses due by 5/5/2016 (Attachments: # 1 Memorandum in Support of Motion for Reconsideration of Order on Remand, # 2 Attachment 1, # 3 Attachment 2, # 4 Attachment 3, # 5 Attachment 4, # 6 Attachment 5, # 7 Attachment 6, # 8 Attachment 19, # 9 Attachment 20, # 10 Attachment 23, # 11 Attachment 24, # 12 Attachment 25, # 13 Attachment 26, # 14 Attachment 28, # 15 Attachment 40, # 16 Attachment 41, # 17 Attachment 42, # 18 Attachment 43, # 19 Attachment 44, # 20 Attachment 46, # 21 Attachment 47, # 22 Attachment 48, # 23 Attachment 49, # 24 Attachment 52, # 25 Attachment 55, # 26 Attachment 56)(Czuba, Deborah)
04/11/2016	337	Sealed Document Re: 335 MOTION to Seal Document (<i>Attachments to Memorandum In Support of Motion for Reconsideration of Order on Remand</i>), 336 MOTION for Reconsideration re 325 Memorandum Decision,,, <i>Motion for Reconsideration of Order on Remand</i> . (Attachments: # 1 Attachment 8, # 2 Attachment 9, # 3 Attachment 10, # 4 Attachment 11, # 5 Attachment 12, # 6 Attachment 13, # 7 Attachment 14, # 8 Attachment 15, # 9 Attachment 16, # 10 Attachment 17, # 11 Attachment 18, # 12 Attachment 21, # 13 Attachment 22, # 14 Attachment 27, # 15 Attachment 29, # 16 Attachment 30, # 17 Attachment 31, # 18 Attachment 32, # 19 Attachment 33, # 20 Attachment 34, # 21 Attachment 35, # 22 Attachment 36, # 23 Attachment 37, # 24 Attachment 38, # 25 Attachment 39, # 26 Attachment 45, # 27 Attachment 50, # 28 Attachment 51, # 29 Attachment 53, # 30 Attachment 54, # 31 Attachment 57, # 32 Attachment 58, # 33 Attachment 59)(Czuba, Deborah) Modified on 4/12/2016 to refer to Dkt. 336 Attachment #1 for Certificate of Service (cjs). Modified on 6/2/2016 to reflect entry to remain under Seal pursuant to Order Dkt. 345 (cjs).

05/02/2016	338	RESPONSE to Motion re 334 MOTION for Leave to File Excess Pages filed by Al Ramirez. Replies due by 5/19/2016.(Anderson, L)
05/02/2016	339	SEALED RESPONSE to Motion re 335 MOTION to Seal Document (<i>Attachments to Memorandum In Support of Motion for Reconsideration of Order on Remand</i>) filed by Al Ramirez. Replies due by 5/19/2016.(Anderson, L)
05/04/2016	340	REPLY to Response to Motion re 334 MOTION for Leave to File Excess Pages <i>Reply In Support of Motion to File Memorandum In Excess of Thirty Pages</i> filed by Thomas Eugene Creech.(Czuba, Deborah)
05/05/2016	341	MOTION for Extension of Time to File Response/Reply to Motion for <i>Reconsideration of Order on Remand</i> Jessica M Lorello appearing for Respondent Al Ramirez. Responses due by 5/31/2016 (Attachments: # 1 Affidavit)(Lorello, Jessica)
05/05/2016	342	NOTICE by Thomas Eugene Creech re 341 MOTION for Extension of Time to File Response/Reply to Motion for <i>Reconsideration of Order on Remand - Notice of Non-Objection to Respondent's Motion for Extension of Time</i> (Czuba, Deborah)
05/05/2016		CORRECTIVE ENTRY - The entry docket number 342 Notice (Other), filed by Thomas Eugene Creech was filed incorrectly in this case as the wrong event was used. The filing party shall re-submit their filing using the correct event of "Response to Motion" located under Responses and Replies as this event correctly links to the motion and terms the response deadline. (cjs)
05/05/2016	343	RESPONSE to Motion re 341 MOTION for Extension of Time to File Response/Reply to Motion for <i>Reconsideration of Order on Remand Notice of Non-Objection to Respondent's Motion for Extension of Time</i> filed by Thomas Eugene Creech. Replies due by 5/23/2016.(Czuba, Deborah)
05/18/2016	344	ORDER - IT IS ORDERED: 1. Denise Youngs Motion to Withdraw as Co-Counsel (Dkt. 329) is GRANTED. Petitioners three attorneys with the Capital Habeas Unit of the Federal Defender Services of Idaho shall continue to represent Petitioner. 2. The Clerk of Court shall mail a copy of this Order to Denise Young at the postal address on file with the Court. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjs)
05/18/2016		CERTIFICATE OF SERVICE by Clerk of Court of mailing 344 Order to Denise I. Young, Attorney at Law, 2930 N Santa Rosa Place, Tucson, AZ 85712. (cjs)
06/02/2016	345	ORDER granting 334 Motion for Leave to File Excess Pages; granting 335 Motion to Seal Document; granting 341 Motion for Extension of Time to File Response/Reply re 336 MOTION for Reconsideration re 325 Memorandum Decision (Responses due by 6/24/2016, Replies due by 7/11/2016). Attachments 7-18, 21-22, 27, 29-39, 45, 50-51, 53-54, and 57-59 to Petitioners Memorandum in Support of Motion for <i>Reconsideration of Order on Remand</i> (Dkt. 337) shall remain sealed. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjs)
06/24/2016	346	MOTION for Extension of Time to File Response/Reply as to 336 MOTION for <i>Reconsideration re 325 Memorandum Decision,, Motion for Reconsideration of Order on Remand</i> L LaMont Anderson appearing for Respondent Al Ramirez. Responses due by 7/18/2016 (Attachments: # 1 Affidavit)(Anderson, L)

06/24/2016	347	RESPONSE to Motion re 346 MOTION for Extension of Time to File Response/Reply as to 336 MOTION for Reconsideration re 325 Memorandum Decision,,, <i>Motion for Reconsideration of Order on Remand Notice of Non-Objection</i> filed by Thomas Eugene Creech. Replies due by 7/11/2016.(Horwitz, Jonah)
07/13/2016	348	MOTION for Extension of Time to File Response/Reply as to 336 MOTION for Reconsideration re 325 Memorandum Decision and Order on Remand L LaMont Anderson appearing for Respondent Al Ramirez. Responses due by 8/8/2016. (Attachments: # 1 Affidavit)(Anderson, L) Modified on 7/14/2016 to edit text for linked Docket (cjs).
07/13/2016	349	NOTICE by Thomas Eugene Creech re 348 MOTION for Extension of Time to File Response/Reply as to 336 MOTION for Reconsideration re 325 Memorandum Decision and Order on Remand, <i>Notice of Non-Objection to Respondent's Motion for Extension of Time</i> (Czuba, Deborah) Modified on 7/14/2016 to edit text for linked docket (cjs).
07/18/2016	350	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech. This appeal remains stayed. Within 14 days after the district court enters its final order on limited remand, the parties shall file simultaneous status reports in this Court or move, consistently with the rules, for other appropriate relief. (cjs)
07/29/2016	351	MOTION for Extension of Time to File Response/Reply as to 336 MOTION for Reconsideration re 325 Memorandum Decision,,, <i>Motion for Reconsideration of Order on Remand</i> L LaMont Anderson appearing for Respondent Al Ramirez. Responses due by 8/22/2016 (Attachments: # 1 Affidavit)(Anderson, L)
07/29/2016	352	NOTICE by Thomas Eugene Creech re 351 MOTION for Extension of Time to File Response/Reply as to 336 MOTION for Reconsideration re 325 Memorandum Decision,,, <i>Motion for Reconsideration of Order on Remand Notice of Non-Objection to Respondent's Motion for Extension of Time</i> (Czuba, Deborah)
07/29/2016		CORRECTIVE ENTRY - The entry docket number 352 Notice (Other), filed by Thomas Eugene Creech was filed incorrectly in this case as the wrong event was used. The filing party shall re-submit their filing using the correct event of "Response to Motion". located under Responses and Replies as using this event correctly links to the motion and terms the response deadline.(cjs)
07/29/2016	353	RESPONSE to Motion re 351 MOTION for Extension of Time to File Response/Reply as to 336 MOTION for Reconsideration re 325 Memorandum Decision,,, <i>Motion for Reconsideration of Order on Remand</i> , 336 MOTION for Reconsideration re 325 Memorandum Decision,,, <i>Motion for Reconsideration of Order on Remand Notice of Non-Objection to Respondent's Motion for Extention of Time</i> filed by Thomas Eugene Creech. Replies due by 8/15/2016.(Czuba, Deborah)
08/05/2016	354	MOTION for Leave to File Excess Pages L LaMont Anderson appearing for Respondent Al Ramirez. Responses due by 8/29/2016 (Anderson, L)
08/05/2016	355	RESPONSE to Motion re 336 MOTION for Reconsideration re 325 Memorandum Decision,,, <i>Motion for Reconsideration of Order on Remand</i> filed by Al Ramirez. Replies due by 8/22/2016.(Anderson, L)
08/08/2016	356	RESPONSE to Motion re 354 MOTION for Leave to File Excess Pages <i>Notice of Non-Objection to Respondent's Motion to File Oversize Brief</i> filed by Thomas Eugene Creech. Replies due by 8/25/2016.(Horwitz, Jonah)

08/08/2016	357	MOTION to Set Deadline for Reply in Support of Reconsideration Jonah Horwitz appearing for Petitioner Thomas Eugene Creech. Responses due by 9/1/2016 (Attachments: # 1 Declaration of Jonah J. Horwitz)(Horwitz, Jonah)
08/09/2016	358	RESPONSE to Motion re 357 MOTION to Set Deadline for Reply in Support of Reconsideration filed by Al Ramirez. Replies due by 8/26/2016.(Anderson, L)
08/11/2016	359	REPLY to Response to Motion re 357 MOTION Motion to Set Deadline for Reply in Support of Reconsideration <i>Reply In Support of Motion to Set Deadline</i> filed by Thomas Eugene Creech. (Attachments: # 1 Attachment 1, # 2 Attachment 2, # 3 Attachment 3)(Czuba, Deborah)
08/11/2016	360	ORDER - IT IS HEREBY ORDERED: 1. Respondents Motions for Extension of Time (Dkt. 346 , 348 , and 351) are GRANTED. 2. Respondents Motion to File Oversize Brief (Dkt. 354) is GRANTED. 3. Petitioners Motion to Set Deadline for Reply in Support of Reconsideration (Dkt. 357) is GRANTED. Petitioners reply shall be filed no later than 10/4/2016. The Court will not consider further requests for extensions of time. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjs)
10/04/2016	361	MOTION for Leave to File Excess Pages <i>Motion to File Memorandum in Excess of Fifteen Pages</i> Jonah Horwitz appearing for Petitioner Thomas Eugene Creech. Responses due by 10/28/2016 (Attachments: # 1 Declaration of Jonah J. Horwitz in Support of Motion to File Memorandum in Excess of Fifteen Pages)(Horwitz, Jonah)
10/04/2016	362	REPLY to Response to Motion re 336 MOTION for Reconsideration re 325 Memorandum Decision,,, <i>Motion for Reconsideration of Order on Remand Reply in Support of Motion for Reconsideration of Order on Remand</i> filed by Thomas Eugene Creech. (Attachments: # 1 Attachment 1, # 2 Attachment 2, # 3 Attachment 3, # 4 Attachment 4 - Part 1, # 5 Attachment 4 - Part 2, # 6 Attachment 5, # 7 Attachment 6, # 8 Attachment 7, # 9 Attachment 8, # 10 Attachment 9, # 11 Attachment 10, # 12 Attachment 11, # 13 Attachment 12, # 14 Attachment 13, # 15 Attachment 14 - Part 1, # 16 Attachment 14 - Part 2, # 17 Attachment 14 - Part 3, # 18 Attachment 14 - Part 4, # 19 Attachment 15 - Part 1, # 20 Attachment 15 - Part 2, # 21 Attachment 15 - Part 3, # 22 Attachment 16 - Part 1, # 23 Attachment 16 - Part 2, # 24 Attachment 16 - Part 3, # 25 Attachment 16 - Part 4, # 26 Attachment 16 - Part 5, # 27 Attachment 17, # 28 Attachment 18, # 29 Attachment 19, # 30 Attachment 20)(Horwitz, Jonah)
10/27/2016	363	RESPONSE to Motion re 361 MOTION for Leave to File Excess Pages <i>Motion to File Memorandum in Excess of Fifteen Pages</i> filed by Al Ramirez. Replies due by 11/14/2016.(Anderson, L)
11/01/2016	364	REPLY to Response to Motion re 361 MOTION for Leave to File Excess Pages <i>Motion to File Memorandum in Excess of Fifteen Pages Reply In Support of Motion for Excess Pages</i> filed by Thomas Eugene Creech.(Horwitz, Jonah)
03/24/2017	365	MEMORANDUM DECISION AND ORDER - IT IS ORDERED: 1. Petitioners Motion for Leave to File Memorandum in Excess of Fifteen Pages (Dkt. 361) is GRANTED. 2. Petitioners Motion for Reconsideration (Dkt. 336) is DENIED. 3. The Court does not find its resolution of Petitioners Motion for Reconsideration to be reasonably debatablethat is, reasonable jurists would agree that Petitioner has not established extraordinary circumstances that would warrant reconsideration. Therefore, an additional certificate of appealability will not issue with respect to the Courts denial of the Motion. Signed by Judge B. Lynn Winmill. (caused to be mailed

		to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjs)
03/24/2017	366	JUDGMENT ON REMAND - IT IS ORDERED, ADJUDGED, and DECREED that the Petition for Writ of Habeas Corpus is DENIED IN PART and DISMISSED IN PART, with prejudice, and that judgment is entered in favor of Respondent. In addition, this case is hereby ordered closed. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjs)
03/24/2017	367	DISREGARD - LITIGATION ORDER AND NOTICE OF TELEPHONIC SCHEDULING CONFERENCE - Case Management deadline set for 4/19/2017. Telephonic Scheduling Conference set for 4/26/2017 10:00 AM in Boise Chambers before Judge B. Lynn Winmill. Signed by Judge B. Lynn Winmill. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by (cjs) Modified on 3/24/2017 to disregard pursuant to Corrective Entry (cjs).
03/24/2017		CORRECTIVE ENTRY - The entry docket number 367 Litigation Order, was filed incorrectly in this case as it was entered in the wrong case due to Clerk error. Disregard the entry. The filing party shall re-submit their correct filing. (cjs)
04/05/2017	368	AMENDED NOTICE OF APPEAL as to 366 Judgment, 325 Memorandum Decision,,, 365 Order on Motion for Reconsideration, Order on Motion for Leave to File Excess Pages,,, by Thomas Eugene Creech. (Notice sent to Court Reporter & 9th Cir) (Horwitz, Jonah)
07/11/2017	369	ORDER of USCA (10-99015) as to 368 Notice of Appeal, filed by Thomas Eugene Creech. (st) (Entered: 07/13/2017)
08/25/2017	370	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech, 368 Notice of Appeal, filed by Thomas Eugene Creech. Petitioners request for an extension of time to file a replacement opening brief is GRANTED. (cjs) (Entered: 08/28/2017)
10/26/2017	371	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech, 368 Notice of Appeal, filed by Thomas Eugene Creech - briefing reset. (cjs) (Entered: 10/27/2017)
12/20/2017	372	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech, 368 Notice of Appeal, filed by Thomas Eugene Creech - granting motion for extension of time and resetting briefing deadlines. (cjs)
02/07/2018	373	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech, 368 Notice of Appeal, filed by Thomas Eugene Creech - briefing reset for replacement opening brief. (cjs) (Entered: 02/08/2018)
03/16/2018	374	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech, 368 Notice of Appeal, filed by Thomas Eugene Creech. Appellants motions for judicial notice to file an oversized brief, to file a portion of the opening brief under seal, and to file supplemental excerpts of record volume VI under seal are GRANTED. Appellants motion to remand the case to district court is DENIED as premature. (cjs) (Entered: 03/19/2018)
06/05/2018	375	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech. The replacement answering brief shall be filed no later than 8/10/2018. The replacement reply brief, if any, shall be filed within 21 days after the filing of the answering brief.

		(cjs) (Entered: 06/06/2018)
08/06/2018	376	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech, 368 Notice of Appeal, filed by Thomas Eugene Creech. The replacement answering brief shall be filed no later than 10/9/2018. The replacement reply brief, if any, shall be filed no later than 10/30/2018. (cjs) (Entered: 08/07/2018)
10/04/2018	377	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech, 368 Notice of Appeal, filed by Thomas Eugene Creech. Motion for extension of time granted and briefing reset. (cjs) (Entered: 10/09/2018)
12/04/2018	378	ORDER of USCA as to 284 Notice of Appeal filed by Thomas Eugene Creech, 368 Notice of Appeal, filed by Thomas Eugene Creech. Briefing reset. (cjs) (Entered: 12/12/2018)
07/30/2019	379	Transmitted Record on Appeal to US Court of Appeals re 368 Notice of Appeal, 10-99015.(jd)
09/19/2019	380	ORDER of USCA (10-99015) as to 284 Notice of Appeal filed by Thomas Eugene Creech, 368 Notice of Appeal, filed by Thomas Eugene Creech. (jd)
11/05/2019	381	ORDER of USCA (10-99015) as to 368 Notice of Appeal, filed by Thomas Eugene Creech. (jd)
01/14/2020	382	ORDER of USCA 10-99015 as to 368 Notice of Appeal, filed by Thomas Eugene Creech. (jd) (Entered: 01/15/2020)
03/02/2020	383	ORDER of USCA 10-99015 as to 368 Notice of Appeal, filed by Thomas Eugene Creech. (jd)
03/25/2020	384	ORDER of USCA (10-99015) as to 368 Notice of Appeal, filed by Thomas Eugene Creech (kt) (Entered: 03/26/2020)
04/27/2020	385	ORDER of USCA 10-99015 as to 368 Notice of Appeal, filed by Thomas Eugene Creech - The supplemental reply brief is now due June 5, 2020. (jd) (Entered: 04/29/2020)
05/27/2020	386	ORDER of USCA 10-99015 as to 368 Notice of Appeal, filed by Thomas Eugene Creech. (jd) (Entered: 06/02/2020)
07/08/2020	387	ORDER of USCA 10-99015 as to 368 Notice of Appeal, filed by Thomas Eugene Creech. (jd) (Entered: 07/09/2020)
07/16/2020	388	ORDER of USCA 10-99015 as to 368 Notice of Appeal, filed by Thomas Eugene Creech. (jd) (Entered: 07/17/2020)
07/20/2022	389	OPINION of USCA 10-99015 as to 284 Notice of Appeal filed by Thomas Eugene Creech and 368 Notice of Appeal, filed by Thomas Eugene Creech. AFFIRMED. (Attachments: # 1 Instructions)(jd)
10/07/2022	390	ORDER of USCA as to 368 Notice of Appeal, filed by Thomas Eugene Creech 10-99015 (alw)
02/06/2023	391	ORDER AND AMENDED OPINION of USCA (USCA No. 10-99015) - AFFIRMED. (ac)
04/25/2023	392	NOTICE of U.S.Supreme Court Case Number/Application Number,22A917 re: USCA Case No. 10-99015 (ac) (Entered: 04/27/2023)

07/06/2023	393	NOTICE of U.S.Supreme Court Case Number: 23-5039 re: USCA Case No. 10-99015 re. dkt. 392 . "The petition for a writ of certiorari in the above entitled case was filed on June 30, 2023 and placed on the docket July 5, 2023 as No. 23-5039." (ac) (Entered: 07/12/2023)
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PACER Service Center			
Transaction Receipt			
10/10/2023 16:33:24			
PACER Login:	jhorwitz84	Client Code:	
Description:	Docket Report	Search Criteria:	1:99-cv-00224-BLW
Billable Pages:	26	Cost:	2.60
Exempt flag:	Exempt	Exempt reason:	Always

PACER fee: Exempt

**General Docket
United States Court of Appeals for the Ninth Circuit**

Court of Appeals Docket #: 10-99015 Nature of Suit: 3535 Habeas Corpus: Death Penalty Thomas Creech v. Tim Richardson Appeal From: U.S. District Court for Idaho, Boise Fee Status: Not Applicable	Docketed: 07/13/2010 Termed: 07/20/2022
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Case Type Information:

- 1) prisoner-death penalty
- 2) state
- 3) death penalty habeas corpus

Originating Court Information:

District: 0976-1 : [1:99-cv-00224-BLW](#)
Court Reporter: Tamara Idylene Hohenleitner, Court Reporter
Trial Judge: B. Lynn Winmill, Chief District Judge
Date Filed: 06/10/1999

Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:	Date Rec'd COA:
06/09/2010	06/10/2010	07/09/2010	07/09/2010

Prior Cases:

[94-35196](#) **Date Filed:** 03/01/1994 **Date Disposed:** 02/23/1995 **Disposition:** Affirmed - Memorandum

Current Cases:

None

THOMAS E. CREECH
 Petitioner - Appellant,

Deborah Anne Czuba
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 Federal Defender Services of Idaho
 Firm: 208-331-5500
 702 W Idaho Street
 Suite 1000
 Boise, ID 83702

v.

JOHN HARDISON
Terminated: 12/04/2018
 Respondent - Appellee,

AL RAMIREZ, Warden
Terminated: 03/21/2019
Respondent - Appellee,

KEITH YORDY, Warden
Terminated: 07/16/2020
Respondent - Appellee,

TYRELL DAVIS, Warden
Terminated: 07/20/2022
Respondent - Appellee,

TIM RICHARDSON, Warden
Respondent - Appellee,

L. LaMont Anderson
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AGID - Idaho Office of the Attorney General
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NATIONAL ASSOCIATION FOR PUBLIC DEFENSE
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Jenner & Block, LLP
Firm: 202-639-6000
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Suite 900
Washington, DC 20001-4412

THOMAS E. CREECH,

Petitioner - Appellant,

v.

TIM RICHARDSON, Warden,

Respondent - Appellee.

07/13/2010	<input type="checkbox"/> 1 3 pg, 26.13 KB	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. The schedule is set as follows: Appellant Thomas E. Creech opening brief due 10/11/2010. Appellee John Hardison answering brief due 12/10/2010. Appellant's optional reply brief is due 21 days after service of the answering brief. [7403405] (PA) [Entered: 07/13/2010 02:46 PM]
09/15/2010	<input type="checkbox"/> 2 62 pg, 146.68 KB	Filed (ECF) Appellant Thomas E. Creech Motion to remand case. Date of service: 09/15/2010. [7475558] (Hampton, Teresa) [Entered: 09/15/2010 02:59 PM]
09/22/2010	<input type="checkbox"/> 3 11 pg, 27.04 KB	Filed (ECF) Appellee John Hardison response opposing motion (, motion to remand case). Date of service: 09/22/2010. [7483651] (Anderson, L.) [Entered: 09/22/2010 02:30 PM]
10/05/2010	<input type="checkbox"/> 4 3 pg, 9.65 KB	Filed (ECF) Appellant Thomas E. Creech Motion for miscellaneous relief [Motion to File Late Reply to Response to Motion]. Date of service: 10/05/2010. [7497879] (Hampton, Teresa) [Entered: 10/05/2010 03:04 PM]
10/05/2010	<input type="checkbox"/> 5 4 pg, 12.32 KB	Filed (ECF) Appellant Thomas E. Creech reply to response (). Date of service: 10/05/2010. [7497884] (Hampton, Teresa) [Entered: 10/05/2010 03:06 PM]
10/08/2010	<input type="checkbox"/> 6 3 pg, 10.03 KB	Filed (ECF) Appellant Thomas E. Creech Motion to extend time to file Opening brief until 01/10/2011. Date of service: 10/08/2010. [7502130] (Hampton, Teresa) [Entered: 10/08/2010 10:48 AM]
10/13/2010	<input type="checkbox"/> 7 1 pg, 22.17 KB	Filed order (Appellate Commissioner) Appellant's opposed Motion To Remand Case To District Court is denied without prejudice to renewal in the opening brief. Appellant's motion to file a late reply to the response to the motion for remand is granted. The Clerk's Office shall file the reply submitted October 5, 2010. Appellant's unopposed motion to extend the time to file the opening brief is granted as follows. The opening brief is due January 11, 2011. The answering brief is due March 15, 2011. The reply brief is due within 21 days after service of the answering brief. [7507379] (PA) [Entered: 10/13/2010 04:12 PM]
01/06/2011	<input type="checkbox"/> 8 4 pg, 10.92 KB	Filed (ECF) Appellant Thomas E. Creech Motion to extend time to file Opening brief until 01/25/2011. Date of service: 01/06/2011. [7602525] (Hampton, Teresa) [Entered: 01/06/2011 01:29 PM]
01/07/2011	<input type="checkbox"/> 9 1 pg, 22.28 KB	Filed clerk order (Deputy Clerk:ME): Appellant's opposed motion for a 14-day extension of time, his second motion to extend the time to file the opening brief, is granted. The opening brief is due January 25, 2011. The answering brief is due March 29, 2011. The reply brief is due within 21 days after service of the answering brief. [7604646] (HH) [Entered: 01/07/2011 03:39 PM]
01/25/2011	<input type="checkbox"/> 10	STRICKEN PER ORDER [99] . Submitted (ECF) Opening brief for review. Submitted by Appellant Thomas E. Creech. Date of service: 01/25/2011. [7624654] (Hampton, Teresa) [Entered: 01/25/2011 07:44 PM]
01/26/2011	<input type="checkbox"/> 11 1 pg, 80.36 KB	Filed clerk order: The opening brief [10] submitted by Thomas E. Creech is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, with a blue cover, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. [7625866] (PA) [Entered: 01/26/2011 02:41 PM]
01/26/2011	<input type="checkbox"/> 12 699 pg, 39.2 MB	Filed Appellant Thomas E. Creech excerpts of record in 3 volumes. Served on 01/25/2011. [7625943] (PA) [Entered: 01/26/2011 03:08 PM]
01/31/2011	<input type="checkbox"/> 13	Received 7 paper copies of Opening brief [10] filed by Thomas E. Creech. [7632640] (PA) [Entered: 02/01/2011 03:32 PM]
03/18/2011	<input type="checkbox"/> 14 8 pg, 126.7 KB	Filed (ECF) Appellee John Hardison Motion to extend time to file Answering brief until 04/28/2011 at 11:59 pm. Date of service: 03/18/2011. [7686354] (Anderson, L.) [Entered: 03/18/2011 09:58 AM]
03/21/2011	<input type="checkbox"/> 15 1 pg, 22.11 KB	Filed order MOATT: (PA)Appellee's unopposed motion to extend the time to April 28, 2011 to file the answering brief is granted. The reply brief is due within 21 days after service of the answering brief. [7689351] (PA) [Entered: 03/21/2011 05:09 PM]
04/19/2011	<input type="checkbox"/> 16 8 pg, 98.35 KB	Filed (ECF) Appellee John Hardison Motion to extend time to file Answering brief until 05/31/2011 at 11:59 pm. Date of service: 04/19/2011. [7721263] (Anderson, L.) [Entered: 04/19/2011 09:17 AM]
04/20/2011	<input type="checkbox"/> 17 1 pg, 22.1 KB	Filed order MOATT: (ME)Appellee's unopposed motion for a second extension of time to file the answering brief is granted. The answering brief is due May 31, 2011. The reply brief is due within 21 days after service of the answering brief. [7724498] (PA) [Entered: 04/20/2011 04:24 PM]
05/24/2011	<input type="checkbox"/> 18 8 pg, 98.88 KB	Filed (ECF) Appellee John Hardison Motion to extend time to file Answering brief until 06/30/2011 at 11:59 pm. Date of service: 05/24/2011. [7761983] (Anderson, L.) [Entered: 05/24/2011 08:23 AM]
05/27/2011	<input type="checkbox"/> 19 1 pg, 22.19 KB	Filed order MOATT: (ME) Appellee's unopposed motion for a third extension of time to file the answering brief is granted. The answering brief is due June 30, 2011. The reply brief is due within 21 days after service of the answering brief. [7766746] (PA) [Entered: 05/27/2011 10:00 AM]
06/24/2011	<input type="checkbox"/> 20 4 pg, 82.48 KB	Filed (ECF) Appellee John Hardison Motion to file oversized brief. Date of service: 06/24/2011. [7797556] --[COURT UPDATE: Brief stricken per order [99] . 7/11/2017 by TYL] (Anderson, L.) [Entered: 06/24/2011 04:39 PM]

06/27/2011 [21](#) Filed Appellee John Hardison excerpts of record (PARTIAL UNDER SEAL) in 7 volumes [Vols. 6 & 7 FILED UNDER SEAL). Served on 06/24/2011. [7799066] (PA) [Entered: 06/27/2011 03:29 PM]
1070 pg, 22.15 MB

06/28/2011 [22](#) Filed order MOATT: (ME) Appellee's unopposed motion for leave to file an oversized answering brief of 22,297 words is granted. The Clerk's Office shall file the answering brief submitted June 24, 2011. The reply brief is due July 19, 2011. [7800095] (PA) [Entered: 06/28/2011 10:56 AM]
1 pg, 22.62 KB

06/28/2011 [23](#) Filed clerk order: The answering brief [20] submitted by John Hardison is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, with a red cover, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. [7800102] (PA) [Entered: 06/28/2011 10:58 AM]
1 pg, 80.63 KB

07/06/2011 [24](#) Received 7 paper copies of Answering brief [20] filed by John Hardison. [7810013] (PA) [Entered: 07/06/2011 04:07 PM]

07/12/2011 [25](#) Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Reply brief until 08/30/2011. Date of service: 07/12/2011. [7816962] (Hampton, Teresa) [Entered: 07/12/2011 01:49 PM]
7 pg, 20.91 KB

07/13/2011 [26](#) Filed order MOATT: (ME) Appellant's unopposed motion to extend the time to August 30, 2011 to file reply brief is granted. [7818393] (PA) [Entered: 07/13/2011 01:00 PM]
1 pg, 22.34 KB

08/23/2011 [27](#) Filed (ECF) Appellant Thomas E. Creech Motion to extend time to file Reply brief until 09/27/2011. Date of service: 08/23/2011. [7868071] (Hampton, Teresa) [Entered: 08/23/2011 03:25 PM]
7 pg, 20.86 KB

08/26/2011 [28](#) Filed (ECF) Appellant Thomas E. Creech Correspondence: Correspondence regarding opposing counsel's position on Motion for Extension of Time to File Reply Brief. Date of service: 08/26/2011 [7873013] (Hampton, Teresa) [Entered: 08/26/2011 02:41 PM]
1 pg, 41.35 KB

08/29/2011 [29](#) Filed order MOATT: (ME)Appellant's unopposed motion for a second extension of time to file the reply brief is granted. The reply brief is due September 27, 2011. [7875049] (PA) [Entered: 08/29/2011 03:08 PM]
1 pg, 22.26 KB

09/21/2011 [30](#) Filed (ECF) Appellant Thomas E. Creech Motion to extend time to file Reply brief until 10/27/2011. Date of service: 09/21/2011. [7902195] (Hampton, Teresa) [Entered: 09/21/2011 04:03 PM]
7 pg, 21.68 KB

09/23/2011 [31](#) Filed order (Appellate Commissioner) Appellant's motion, opposed in part, for a third extension of time to file the reply brief is granted. The reply brief is due October 27, 2011. Any motion for a further extension of time is disfavored. [7904479] (PA) [Entered: 09/23/2011 11:41 AM]
1 pg, 21.33 KB

10/27/2011 [32](#) Filed (ECF) Appellant Thomas E. Creech Motion to take judicial notice of documents. Date of service: 10/27/2011. [7945571] (Hampton, Teresa) [Entered: 10/27/2011 03:19 PM]
16 pg, 807.64 KB

10/27/2011 [33](#) Filed (ECF) Appellant Thomas E. Creech Motion to file oversized brief. Date of service: 10/27/2011. [7945746] (Hampton, Teresa) [Entered: 10/27/2011 04:12 PM]
3 pg, 9.58 KB

10/27/2011 [34](#) STRICKEN PER ORDER [99]. Submitted (ECF) Reply brief for review. Submitted by Appellant Thomas E. Creech. Date of service: 10/27/2011. [7945763] (Hampton, Teresa) [Entered: 10/27/2011 04:18 PM]

10/28/2011 [35](#) Filed order MOATT: (ME) Appellant's motion for leave to file an oversized reply brief of 10,505 words is granted. The Clerk shall file the reply brief submitted October 27, 2011. [7947370] (PA) [Entered: 10/28/2011 05:00 PM]
1 pg, 22.27 KB

10/28/2011 [36](#) Filed clerk order: The reply brief [34] submitted by Thomas E. Creech is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, with a gray cover, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. [7947373] (PA) [Entered: 10/28/2011 05:02 PM]
1 pg, 80.65 KB

10/31/2011 [38](#) Filed Appellant Thomas E. Creech supplemental excerpts of record on appeal in 1 volumes. [7951343] (PA) [Entered: 11/02/2011 11:41 AM]
40 pg, 2.1 MB

11/01/2011 [37](#) Filed (ECF) Appellee John Hardison response opposing motion (,motion to take judicial notice). Date of service: 11/01/2011. [7949213] (Anderson, L.) [Entered: 11/01/2011 09:09 AM]
9 pg, 26.09 KB


11/02/2011 [39](#) Received paper copies of Reply brief [34] filed by Thomas E. Creech. [7952020] (PA) [Entered: 11/02/2011 03:32 PM]

11/13/2011 [40](#) Filed (ECF) Appellant Thomas E. Creech reply to response (). Date of service: 11/13/2011. [7963070] (Hampton, Teresa) [Entered: 11/13/2011 02:35 PM]
6 pg, 17.33 KB

12/02/2011 [41](#) FILED (ORIGINAL) CERTIFIED RECORD ON APPEAL: 1 box of state court records. [7986369] (SD) [Entered: 12/02/2011 12:03 PM]

01/04/2012 [42](#) Filed clerk order (Deputy Clerk: PA): Oral argument will be held on Thursday, March 8, 2012, at 9:00 a.m., in the 2nd Floor Courtroom of the Pioneer Courthouse, 700 SW Sixth Avenue, Portland, Oregon. Each side will be allotted thirty (30) minutes to present its arguments. [8018925]--[Edited 01/04/2012 by PA] [8018925] (PA) [Entered: 01/04/2012 12:04 PM]
1 pg, 23.38 KB

- 01/05/2012 [43](#)
7 pg, 362.07 KB Notice of Oral Argument on MARCH 8, 2012, Calendar. Please return ACKNOWLEDGMENT OF HEARING NOTICE form to: PORTLAND Office. Please open attached documents to view details about your case. [8020420] (ME) [Entered: 01/05/2012 10:10 AM]
- 01/10/2012 [44](#)
1 pg, 38.61 KB Filed (ECF) Acknowledgment of hearing notice. Location: Portland. Filed by Attorney Teresa A. Hampton for Appellant Thomas E. Creech. [8025636] (Hampton, Teresa) [Entered: 01/10/2012 11:02 AM]
- 01/19/2012 [45](#)
1 pg, 26.7 KB Filed clerk order (Deputy Clerk: PA): By February 10, 2012, Appellee shall file a supplemental answering brief, not to exceed 5,600 words, addressing uncertified Claims G and H in the opening brief. See AOB at 67-78. Appellant's supplemental reply brief, not to exceed 5,600 words, is due February 20, 2012. The Court will decide whether to issue a certificate of appealability as to the uncertified issues after considering the additional briefing. Any motion to extend the time to file a supplemental brief is disfavored. f [8037177] (PA) [Entered: 01/19/2012 12:18 PM]
- 02/10/2012 [46](#)
7 pg, 116.09 KB Filed (ECF) Appellee John Hardison Motion to extend time to file Supplemental brief until 02/15/2012 at 11:59 pm. Date of service: 02/10/2012. [8063913] (Anderson, L.) [Entered: 02/10/2012 08:18 AM]
- 02/10/2012 [47](#)
7 pg, 21.37 KB Filed (ECF) Appellant Thomas E. Creech response opposing motion (,motion to extend time to file brief). Date of service: 02/10/2012. [8064096] (Hampton, Teresa) [Entered: 02/10/2012 09:43 AM]
- 02/10/2012 [48](#)
1 pg, 22.71 KB Filed clerk order (Deputy Clerk: PA): Respondent-Appellee's motion for extension of time to file a supplemental answering brief addressing uncertified Claims G and H is hereby GRANTED. The State's supplemental brief is now due February 15, 2012. Petitioner-Appellant's supplemental reply brief is now due February 24, 2012. [8064994] (PA) [Entered: 02/10/2012 02:48 PM]
- 02/15/2012 [49](#)
32 pg, 65.87 KB Submitted (ECF) Supplemental brief for review. Submitted by Appellee John Hardison. Date of service: 02/15/2012. [8070225] (Anderson, L.) [Entered: 02/15/2012 02:47 PM]
- 02/16/2012 50
Filed clerk order: The supplemental brief [49](#) submitted by John Hardison is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: tan. [8070825] (PA) [Entered: 02/16/2012 08:37 AM]
- 02/17/2012 [51](#)
147 pg, 3.36 MB Filed Appellee John Hardison supplemental excerpts of record to Supplemental Answering Brief (1 Volume). [8078086] (PA) [Entered: 02/22/2012 04:36 PM]
- 02/23/2012 52
Received 7 paper copies of Supplemental brief [49](#) filed by John Hardison. [8079604] (PA) [Entered: 02/23/2012 03:11 PM]
- 02/24/2012 [53](#)
28 pg, 96.35 KB Submitted (ECF) Supplemental brief for review. Submitted by Appellant Thomas E. Creech. Date of service: 02/24/2012. [8081326] (Hampton, Teresa) [Entered: 02/24/2012 05:39 PM]
- 02/24/2012 [54](#)
1 pg, 80.22 KB Filed clerk order: The supplemental brief [53](#) submitted by Thomas E. Creech is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: tan. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [8081332] (PA) [Entered: 02/24/2012 06:51 PM]
- 02/29/2012 55
CJA travel authorization sent to Denise Irene Young for Thomas E. Creech. Authorization number 9CJA10-990150312. [8084743] (KB) [Entered: 02/29/2012 11:26 AM]
- 02/29/2012 56
Received paper copies of Supplemental brief [53](#) filed by Thomas E. Creech. [8085073] (PA) [Entered: 02/29/2012 02:14 PM]
- 03/05/2012 [57](#)
1 pg, 206.72 KB Filed (ECF) Appellee John Hardison citation of supplemental authorities. Date of service: 03/05/2012. [8089464] (Anderson, L.) [Entered: 03/05/2012 09:31 AM]
- 03/06/2012 [58](#)
2 pg, 206.48 KB Filed (ECF) Appellee John Hardison citation of supplemental authorities. Date of service: 03/06/2012. [8091570] (Anderson, L.) [Entered: 03/06/2012 10:03 AM]
- 03/08/2012 59
ARGUED AND SUBMITTED MAY 8, 2012, TO WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE. [8095404] (ME) [Entered: 03/08/2012 10:23 AM]
- 03/23/2012 [60](#)
2 pg, 44.07 KB Filed (ECF) Appellant Thomas E. Creech citation of supplemental authorities. Date of service: 03/23/2012. [8115709] (Hampton, Teresa) [Entered: 03/23/2012 03:39 PM]
- 04/03/2012 61
GTA bill reconciled for Denise Irene Young for Thomas E. Creech. Paid/Canceled: Paid. Authorization Number: 9CJA10-990150312. [8126598] (AC) [Entered: 04/03/2012 05:26 PM]
- 04/05/2012 [62](#)
1 pg, 83.64 KB Filed (ECF) Appellant Thomas E. Creech citation of supplemental authorities. Date of service: 04/05/2012. [8129007] (Hampton, Teresa) [Entered: 04/05/2012 01:06 PM]

- 04/10/2012 [63](#) CJA 21 travel voucher processed for Denise Irene Young for Thomas E. Creech. CJA 21 Number: 032012. [8133807] (MV) [Entered: 04/10/2012 10:57 AM]
- 04/26/2012 [64](#) Filed (ECF) Appellant Thomas E. Creech Motion to remand case. Date of service: 04/26/2012. [8154639] (Hampton, Teresa) [Entered: 04/26/2012 12:16 PM]
9 pg, 33.38 KB
- 04/26/2012 [65](#) Filed (ECF) Appellant Thomas E. Creech citation of supplemental authorities. Date of service: 04/26/2012. [8154892] (Hampton, Teresa) [Entered: 04/26/2012 01:54 PM]
3 pg, 20.78 KB
- 05/10/2012 [66](#) Filed (ECF) Appellee John Hardison response opposing motion (,motion to remand case). Date of service: 05/10/2012. [8173588] (Anderson, L.) [Entered: 05/10/2012 02:22 PM]
21 pg, 65 KB
- 05/17/2012 [67](#) Filed (ECF) Appellant Thomas E. Creech Motion to extend time to file a reply until 05/29/2012. Date of service: 05/17/2012. [8182602] (Hampton, Teresa) [Entered: 05/17/2012 03:25 PM]
4 pg, 14.38 KB
- 05/17/2012 [68](#) Filed order (WILLIAM A. FLETCHER) Petitioner-Appellant's motion for an extension of time, up to and including May 28, 2012, within which to file a reply to Respondent-Appellee's response to his motion to remand is hereby GRANTED. [8182844] (HH) [Entered: 05/17/2012 04:59 PM]
1 pg, 21.59 KB
- 05/29/2012 [69](#) Filed (ECF) Appellant Thomas E. Creech Motion for miscellaneous relief [Motion to File Oversize Reply in Support of Motion to Remand]. Date of service: 05/29/2012. [8194726] (Hampton, Teresa) [Entered: 05/29/2012 08:09 PM]
3 pg, 10.58 KB
- 05/29/2012 [70](#) Filed (ECF) Appellant Thomas E. Creech reply to response (). Date of service: 05/29/2012. [8194728] (Hampton, Teresa) [Entered: 05/29/2012 08:11 PM]
27 pg, 63.5 KB
- 05/31/2012 [71](#) Filed Appellant Thomas E. Creech motion to file SEAL attachments 1-4 to reply to response to motion to remand. Served on 05/30/2012. [8197220] (panel) (EL) [Entered: 05/31/2012 01:34 PM]
3 pg, 76.93 KB
- 05/31/2012 [72](#)  Filed UNDER SEAL Appellant Thomas E. Creech SEALED attachments 1-4 to reply to response to motion to remand Served on 05/30/2012. [8197232] (PANEL) (EL) [Entered: 05/31/2012 01:39 PM]
37 pg, 2.13 MB
- 06/01/2012 [73](#) Filed order (WILLIAM A. FLETCHER): Petitioner-Appellant's motion to file an oversized reply to Respondent- Appellee's response to his motion to remand is hereby GRANTED. The reply, received May 29, 2012, is ordered FILED. [8199403] (AF) [Entered: 06/01/2012 03:07 PM]
1 pg, 21.01 KB
- 06/15/2012 [74](#) Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE) Petitioner-Appellant's motion (dkt. 71) to file under seal attachments 1-4 of his reply to Respondent-Appellee's response to his motion to remand is DENIED. [8215913] (HH) [Entered: 06/15/2012 10:55 AM]
1 pg, 21.53 KB
- 06/20/2012 [75](#) Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE) Petitioner Thomas E. Creech's motion to remand is GRANTED. We vacate the district court's judgment and remand for the district court to reconsider Creech's ineffective assistance of counsel claims in light of Martinez v. Ryan, 132 S. Ct. 1309 (2011). The district court should determine whether Creech's state post-conviction counsel was ineffective and whether any of Creech's ineffective assistance of counsel claims previously found procedurally defaulted are substantial. If the court concludes the procedural default of any of Creech's claims can be excused under Martinez, the court should consider the interplay between Martinez and Cullen v. Pinholster, 131 S. Ct. 1388 (2011), in determining whether Creech should be afforded an evidentiary hearing on claims for which state post-conviction counsel failed to develop a factual record, and whether stay and abeyance is appropriate for any of Creech's ineffective assistance claims. See Gonzalez v. Wong, 667 F.3d 965, 979-80 (9th Cir. 2011). After completing proceedings on remand, the district court should enter a new judgment. The panel will defer a decision on the claims already argued in this appeal. VACATED and REMANDED. [8221300] [8221300] (HH) [Entered: 06/20/2012 11:28 AM]
2 pg, 32.96 KB
- 07/05/2016 [76](#) Terminated Teresa A. Hampton for Thomas E. Creech in 10-99015 (no longer with firm) [10039431] (RY) [Entered: 07/05/2016 05:31 PM]
- 07/06/2016 [77](#) Filed (ECF) Appellant Thomas E. Creech Correspondence: request to terminate counsel. Date of service: 07/06/2016. [10040139] [10-99015]--[COURT UPDATE: Updated docket text to reflect correct ECF filing type. 07/06/2016 by SLM] (Horwitz, Jonah) [Entered: 07/06/2016 11:13 AM]
3 pg, 63.52 KB
- 07/06/2016 [78](#) Terminated Oliver Winston Loewy for Thomas E. Creech in 10-99015 [10040295] (CW) [Entered: 07/06/2016 11:58 AM]
- 07/07/2016 [79](#) COURT DELETED INCORRECT/DUPLICATE ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [80](#). Original Text: Filed (ECF) notice of appearance of Bruce D. Livingston for Appellant Thomas E. Creech. Date of service: 07/07/2016. [10042135] [10-99015] (Livingston, Bruce) [Entered: 07/07/2016 11:44 AM]
- 07/12/2016 [80](#) Filed (ECF) notice of appearance of Bruce D. Livingston for Appellant Thomas E. Creech. Date of service: 07/12/2016. [10047222] [10-99015] (Livingston, Bruce) [Entered: 07/12/2016 11:39 AM]
2 pg, 77 KB
- 07/12/2016 [81](#) Added attorney Bruce D. Livingston for Thomas E. Creech, in case 10-99015. [10047249] (Turcios, Margoth) [Entered: 07/12/2016 11:45 AM]

07/12/2016 [82](#) Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to substitute counsel. Date of service: 07/12/2016. [10047319] [10-99015] (Livingston, Bruce) [Entered: 07/12/2016 12:05 PM]
3 pg, 20.63 KB

07/18/2016 [83](#) Filed order (Appellate Commissioner): The Court grants Appellant's unopposed motion (Docket Entry No. [82](#)) to permit Denise Irene Young, Esq., to withdraw as counsel and for the substitution of Assistant Federal Public Defender Bruce D. Livingston, Federal Defender Services of Idaho, 702 West Idaho Street Suite 900, Boise, Idaho 83702, 208-331- 5530, Bruce_Livingston@fd.org. The Clerk shall change the docket to so reflect and serve a copy of this order on the district court. This appeal remains stayed. Within 14 days after the district court enters its final order on limited remand, the parties shall file simultaneous status reports in this Court or move, consistently with the rules, for other appropriate relief. [10053045] (AF) [Entered: 07/18/2016 11:58 AM]
1 pg, 33.64 KB

07/18/2016 [84](#) Terminated Denise Irene Young for Thomas E. Creech in 10-99015 [10053048] (AF) [Entered: 07/18/2016 11:59 AM]

07/19/2016 [85](#) Filed (ECF) notice of appearance of Jonah J. Horwitz for Appellant Thomas E. Creech. Date of service: 07/19/2016. [10054151] [10-99015] (Horwitz, Jonah) [Entered: 07/19/2016 09:01 AM]
2 pg, 77.85 KB

07/19/2016 [86](#) Added attorney Jonah Horwitz for Thomas E. Creech, in case 10-99015. [10054156] (CW) [Entered: 07/19/2016 09:03 AM]

07/20/2016 [87](#) Filed (ECF) notice of appearance of Deborah A. Czuba for Appellant Thomas E. Creech. Date of service: 07/20/2016. [10055757] [10-99015] (Czuba, Deborah) [Entered: 07/20/2016 07:43 AM]
2 pg, 77.37 KB

07/20/2016 [88](#) Added attorney Deborah Anne Czuba for Thomas E. Creech, in case 10-99015. [10055764] (CW) [Entered: 07/20/2016 07:52 AM]

04/04/2017 [89](#) Filed (ECF) Appellee John Hardison status report (as required by Court order dated 07/18/2016). Date of service: 04/04/2017 [10382431] [10-99015] (Anderson, L.) [Entered: 04/04/2017 10:32 AM]
5 pg, 44.58 KB

04/05/2017 [90](#) Filed (ECF) Appellant Thomas E. Creech status report (as required by Court order dated 07/18/2016). Date of service: 04/05/2017 [10384227] [10-99015] (Horwitz, Jonah) [Entered: 04/05/2017 10:08 AM]
8 pg, 38.86 KB

04/05/2017 [91](#) Filed (ECF) Appellant Thomas E. Creech Motion for miscellaneous request [motion to expand certificate of appealability]. Date of service: 04/05/2017. [10384267] [10-99015]--[COURT UPDATE: Updated docket text to reflect content of filing. 04/05/2017 by SLM] (Horwitz, Jonah) [Entered: 04/05/2017 10:22 AM]
7 pg, 34.56 KB

04/06/2017 [92](#) Received copy of amended notice of appeal from district court filed 4/5/17. PANEL [10386098] (CW) [Entered: 04/06/2017 10:50 AM]
2 pg, 61.59 KB

04/12/2017 [93](#) Filed (ECF) Appellee John Hardison response to motion ([90](#)) Status Report Req'd by Court (ECF Filing)). Date of service: 04/12/2017. [10393615] [10-99015] (Anderson, L.) [Entered: 04/12/2017 01:57 PM]
11 pg, 43.22 KB

04/12/2017 [94](#) Filed (ECF) Appellee John Hardison response to motion ([91](#)) Motion (ECF Filing), [91](#)) Motion (ECF Filing) motion for miscellaneous relief (to be used only if no other relief applies)). Date of service: 04/12/2017. [10393622] [10-99015] (Anderson, L.) [Entered: 04/12/2017 01:59 PM]
11 pg, 42.47 KB

04/18/2017 [95](#) Filed (ECF) Appellant Thomas E. Creech reply to response (motion for miscellaneous relief (to be used only if no other relief applies),). Date of service: 04/18/2017. [10400629] [10-99015] (Horwitz, Jonah) [Entered: 04/18/2017 12:39 PM]
11 pg, 45.59 KB

05/18/2017 [96](#) Filed (ECF) Appellant Thomas E. Creech citation of supplemental authorities. Date of service: 05/18/2017. [10440333] [10-99015] (Horwitz, Jonah) [Entered: 05/18/2017 02:26 PM]
5 pg, 40.68 KB

05/19/2017 [97](#) COURT DELETED INCORRECT ENTRY. Incorrect ECF filing. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [98](#). Original Text: Filed (ECF) Appellee John Hardison response to motion ([96](#)) Additional Citations 28j Filed (ECF Filing)). Date of service: 05/19/2017. [10441916] [10-99015] (Anderson, L.) [Entered: 05/19/2017 02:31 PM]

05/19/2017 [98](#) Filed (ECF) Appellee John Hardison citation of supplemental authorities. Date of service: 05/19/2017. [10442006] --[COURT ENTERED FILING to correct entry [97] .] (TYL) [Entered: 05/19/2017 03:00 PM]
6 pg, 33.52 KB

07/11/2017 [99](#) Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE): Petitioner's request to file replacement briefs (Docket No. [90](#)) is GRANTED. The clerk is directed to STRIKE the briefs currently on file. The replacement opening brief shall be filed no later than September 11, 2017, the replacement answering brief shall be filed no later than November 13, 2017, and the replacement reply brief, if any, shall be filed no later than December 1, 2017. Petitioner's motion to expand the certificate of appealability (Docket No. [91](#)) is DENIED. Petitioner may request an expansion of the certificate of appealability in accordance with the Ninth Circuit Rule 22-1(e). [10504611] (AF) [Entered: 07/11/2017 02:12 PM]
1 pg, 32.78 KB

08/22/2017 [100](#) Filed (ECF) Streamlined request for extension of time to file Opening Brief by Appellant Thomas E. Creech. New requested due date is 10/11/2017. [10552916] [10-99015] (Horwitz, Jonah) [Entered: 08/22/2017 08:45 AM]


- 08/23/2017 [101](#) **Streamlined request [100] by Appellant Thomas E. Creech to extend time to file the brief is not approved because Rule (31-2.2(a)(2)) A written motion must be filed.** [10554580] (KM) [Entered: 08/23/2017 08:45 AM]
- 08/24/2017 [102](#) Filed (ECF) Appellant Thomas E. Creech Motion to extend time to file Opening brief until 11/13/2017. Date of service: 08/24/2017. [10557502] [10-99015] (Horwitz, Jonah) [Entered: 08/24/2017 02:29 PM]
6 pg, 29.61 KB
- 08/25/2017 [103](#) Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE) Petitioner's request for an extension of time to file a replacement opening brief (Docket No. [102](#)) is GRANTED. The replacement opening brief shall be filed no later than November 10, 2017, the replacement answering brief shall be filed no later than January 9, 2018, and the replacement reply brief, if any, shall be filed no later than January 30, 2018. [10559609] (OC) [Entered: 08/25/2017 04:22 PM]
1 pg, 32.62 KB
- 10/24/2017 [104](#) Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Opening brief until 01/09/2018. Date of service: 10/24/2017. [10629152] [10-99015] (Horwitz, Jonah) [Entered: 10/24/2017 10:18 AM]
5 pg, 26.58 KB
- 10/26/2017 [105](#) Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE): Petitioner's second unopposed motion for an extension of time to file a replacement opening brief (Dkt. [104](#)) is GRANTED. The replacement opening brief shall be filed no later than January 9, 2018. The replacement answering brief shall be filed no later than March 12, 2018. The replacement reply brief, if any, shall be filed no later than April 2, 2018. [10633415] (AF) [Entered: 10/26/2017 04:34 PM]
1 pg, 32 KB
- 12/15/2017 [106](#) Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Opening brief until 02/08/2018. Date of service: 12/15/2017. [10691621] [10-99015] (Horwitz, Jonah) [Entered: 12/15/2017 07:28 AM]
4 pg, 25.1 KB
- 12/20/2017 [107](#) Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE) Petitioner's third unopposed motion for an extension of time to file a replacement opening brief (Dkt. [106](#)) is GRANTED. The replacement opening brief shall be filed no later than February 8, 2018. The replacement answering brief shall be filed no later than April 9, 2018. The replacement reply brief, if any, shall be filed no later than April 30, 2018. [10697425] (WL) [Entered: 12/20/2017 11:42 AM]
1 pg, 38.83 KB
- 01/25/2018 [108](#) Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Opening brief until 03/12/2018. Date of service: 01/25/2018. [10738244] [10-99015] (Horwitz, Jonah) [Entered: 01/25/2018 11:00 AM]
5 pg, 28.05 KB
- 02/07/2018 [109](#) Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE) Petitioner's fourth unopposed motion for an extension of time to file a replacement opening brief (Dkt. [108](#)) is GRANTED. Absent extraordinary circumstances, no further extensions will be granted. The replacement opening brief shall be filed no later than March 12, 2018. The replacement answering brief shall be filed no later than May 11, 2018. The replacement reply brief, if any, shall be filed no later than June 1, 2018. [10755709] (OC) [Entered: 02/07/2018 04:55 PM]
1 pg, 38.84 KB
- 03/12/2018 [110](#) Filed (ECF) Appellant Thomas E. Creech Motion to take judicial notice of Answer, May 12, 1982, Lori Newton v. Darrol Gardner, USDC Case No. 82-1105. Date of service: 03/12/2018. [10794068] [10-99015] (Horwitz, Jonah) [Entered: 03/12/2018 09:16 AM]
8 pg, 162.13 KB
- 03/12/2018 [111](#) Filed (ECF) Appellant Thomas E. Creech Motion to remand case. Date of service: 03/12/2018. [10794088] [10-99015] (Horwitz, Jonah) [Entered: 03/12/2018 09:24 AM]
36 pg, 2.01 MB
- 03/12/2018 [112](#) Filed (ECF) Appellant Thomas E. Creech Motion to file oversized brief. Date of service: 03/12/2018. [10794101] [10-99015] (Horwitz, Jonah) [Entered: 03/12/2018 09:30 AM]
6 pg, 27.36 KB
- 03/12/2018 113 Filed (ECF) UNDER SEAL Appellant Thomas E. Creech motion to file document under seal and submit sealed document. Type of document: brief. Date of service: 03/12/2018. [10794388] [10-99015] (Horwitz, Jonah) [Entered: 03/12/2018 11:19 AM]
- 03/12/2018 [114](#) Submitted (ECF) Opening Brief for review. Submitted by Appellant Thomas E. Creech. Date of service: 03/12/2018. [10794399] [10-99015] (Horwitz, Jonah) [Entered: 03/12/2018 11:23 AM]
196 pg, 1.24 MB
- 03/12/2018 [115](#) Submitted (ECF) supplemental excerpts of record. Submitted by Appellant Thomas E. Creech. Date of service: 03/12/2018. [10794426] [10-99015] (Horwitz, Jonah) [Entered: 03/12/2018 11:29 AM]
951 pg, 61.83 MB
- 03/12/2018 116 Filed (ECF) UNDER SEAL Appellant Thomas E. Creech notice of intent to unseal previously sealed material. Material: excerpts of record. Date of service: 03/12/2018. [10794452] [10-99015]--[COURT UPDATE: Attached corrected PDF of certificate of service. 03/13/2018 by RY] (Horwitz, Jonah) [Entered: 03/12/2018 11:35 AM]
- 03/12/2018 117 Filed (ECF) UNDER SEAL Appellant Thomas E. Creech motion to file document under seal and submit sealed document. Type of document: excerpts of record. Date of service: 03/12/2018. [10794473] [10-99015] (Horwitz, Jonah) [Entered: 03/12/2018 11:41 AM]

- 03/13/2018 [118](#)
4 pg, 24.2 KB Filed Appellant Thomas E. Creech motion to file opening brief UNDER SEAL. Deficiencies: None. (Court-entered filing, motion originally submitted in [113].) [10796652] (KT) [Entered: 03/13/2018 01:59 PM]
- 03/13/2018 119 Submitted (ECF) UNDER SEAL Opening Brief for review. Submitted by Appellant Thomas E. Creech. Date of service: 03/12/2018. (Court-entered filing, brief originally submitted in [113].) [10796680] (KT) [Entered: 03/13/2018 02:07 PM]
- 03/13/2018 [120](#)
2 pg, 152.06 KB Filed (ECF) notice of filing document ([116]) publicly pursuant to Interim Circuit Rule 27-13(f). Filed by Appellant Thomas E. Creech. Date of service: 03/12/2018. (Court-entered filing) [10796703] (KT) [Entered: 03/13/2018 02:13 PM]
- 03/13/2018 121 Submitted (ECF) provisionally UNDER SEAL supplemental excerpts of record volume V. Submitted by Appellant Thomas E. Creech. Date of service: 03/12/2018. (Court-entered filing, excerpts of record originally submitted in [116].) [10796712] (KT) [Entered: 03/13/2018 02:15 PM]
- 03/13/2018 [122](#)
6 pg, 30.22 KB Filed Appellant Thomas E. Creech motion to file supplemental excerpts of record volume VI UNDER SEAL. Deficiencies: None. Served on 03/12/2018. (Court-entered filing, motion originally submitted in [117].) [10796723] (KT) [Entered: 03/13/2018 02:19 PM]
- 03/13/2018 123 Submitted (ECF) UNDER SEAL supplemental excerpts of record volume VI. Submitted by Appellant Thomas E. Creech. Date of service: 03/12/2018. (Court-entered filing, excerpts of record originally submitted in [117].) [10796732] (KT) [Entered: 03/13/2018 02:22 PM]
- 03/16/2018 [124](#)
1 pg, 39.21 KB Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE): Appellant's motions for judicial notice (Dkt. [110]), to file an oversized brief (Dkt. [112]), to file a portion of the opening brief under seal (Dkt. [113]), and to file supplemental excerpts of record volume VI under seal (Dkt. [117]) are GRANTED. Appellant's motion to remand the case to district court (Dkt. [111]) is DENIED as premature. [10801750] (AF) [Entered: 03/16/2018 01:50 PM]
- 04/03/2018 [125](#)
1 pg, 193.87 KB Filed clerk order (Deputy Clerk: SVG): On March 12, 2018, appellant submitted Volume 5 of the supplemental excerpts of record provisionally under seal, accompanied by a notice of intent to file that volume publicly pursuant to Interim Ninth Circuit Rule 27-13(f). No other party has filed a motion to file or maintain that volume under seal. Consequently the Clerk shall publicly file the redacted opening brief (DE [114]) and Volumes 1 through 5 of the supplemental excerpts of record (DE [115] and [121]), and shall file the unredacted opening brief (DE [119]) and Volume 6 (DE [123]) under seal. [10822335] (AF) [Entered: 04/03/2018 10:54 AM]
- 04/03/2018 [126](#)
2 pg, 205.51 KB Filed (ECF) notice of filing document ([116]) publicly pursuant to Interim Circuit Rule 27-13(f). Filed by Appellant Thomas E. Creech. Date of service: 03/12/2018. (Court-entered filing) [10822343] (AF) [Entered: 04/03/2018 10:57 AM]
- 04/03/2018 [127](#)
279 pg, 18.54 MB Submitted (ECF) supplemental excerpts of record Vol 5. Submitted by Appellant Thomas E. Creech. Date of service: 03/12/2018. (Court-entered filing, excerpts of record originally submitted in [116].) [10822351] (AF) [Entered: 04/03/2018 10:59 AM]
- 04/03/2018 [128](#)
2 pg, 187.31 KB Filed clerk order: The opening brief [119] submitted by Thomas E. Creech is filed UNDER SEAL. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: blue. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate CM/ECF. The Court has reviewed the supplemental excerpts of record [115], [127], [123] submitted by Thomas E. Creech. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6. [10822607] (GV) [Entered: 04/03/2018 12:23 PM]
- 04/03/2018 [129](#)
2 pg, 186.76 KB Filed clerk order: The opening brief [114] submitted by Thomas E. Creech is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: blue. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate CM/ECF. [10822611] (GV) [Entered: 04/03/2018 12:28 PM]
- 04/09/2018 130 Filed four paper copies of supplemental excerpts of record [115], [127], [123] in 6 volumes (Volume 6 UNDER SEAL) filed by Appellant Thomas E. Creech. (sent to panel) [10828927] (GV) [Entered: 04/09/2018 11:05 AM]
- 04/09/2018 131 Received 7 paper copies of Opening Brief [119] filed UNDER SEAL by Thomas E. Creech. [10829261]--[Edited 04/11/2018 by SD to note that the brief was sent to panel] (SD) [Entered: 04/09/2018 01:13 PM]
- 04/09/2018 132 Received 7 paper copies of Opening Brief [114] filed by Thomas E. Creech. [10829267]--[Edited 04/11/2018 by SD to note that the brief was sent to panel] (SD) [Entered: 04/09/2018 01:16 PM]

05/10/2018	<input type="checkbox"/>	133	Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellee John Hardison. New requested due date is 06/11/2018. [10868419] [10-99015] (Anderson, L.) [Entered: 05/10/2018 12:19 PM]
05/10/2018	<input type="checkbox"/>	134	Streamlined request [133] by Appellee John Hardison to extend time to file the brief is approved. Amended briefing schedule: Appellee John Hardison answering brief due 06/11/2018. The optional reply brief is due 21 days from the date of service of the answering brief. [10868669] (KM) [Entered: 05/10/2018 02:11 PM]
06/05/2018	<input type="checkbox"/>	135	Filed (ECF) Appellee John Hardison Motion to extend time to file Answering brief until 08/10/2018. Date of service: 06/05/2018. [10896513] [10-99015] (Anderson, L.) [Entered: 06/05/2018 10:00 AM]
06/05/2018	<input type="checkbox"/>	136	Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE) Respondent-Appellee's motion for an extension of time (Dkt. 135) is GRANTED. The replacement answering brief shall be filed no later than August 10, 2018. The replacement reply brief, if any, shall be filed within 21 days after the filing of the answering brief. [10897491] (WL) [Entered: 06/05/2018 03:25 PM]
08/03/2018	<input type="checkbox"/>	137	Filed (ECF) Appellee John Hardison Motion to extend time to file Answering brief until 10/09/2018. Date of service: 08/03/2018. [10965700] [10-99015] (Anderson, L.) [Entered: 08/03/2018 01:51 PM]
08/06/2018	<input type="checkbox"/>	138	Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE) Respondent-Appellee's unopposed motion for an extension of time to file a replacement answering brief (Dkt. 137) is GRANTED. The replacement answering brief shall be filed no later than October 9, 2018. The replacement reply brief, if any, shall be filed no later than October 30, 2018. [10967798] (WL) [Entered: 08/06/2018 03:25 PM]
10/02/2018	<input type="checkbox"/>	139	Filed (ECF) Appellee John Hardison Motion to extend time to file Answering brief until 12/10/2018. Date of service: 10/02/2018. [11032740] [10-99015] (Anderson, L.) [Entered: 10/02/2018 03:04 PM]
10/04/2018	<input type="checkbox"/>	140	Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE): Respondent-Appellee's unopposed motion for an extension of time to file a replacement answering brief (Dkt. 139) is GRANTED. The replacement answering brief shall be filed no later than December 10, 2018. The replacement reply brief, if any, shall be filed no later than December 31, 2018. [11035162] (AF) [Entered: 10/04/2018 11:09 AM]
12/03/2018	<input type="checkbox"/>	141	Filed (ECF) Appellee John Hardison Motion to extend time to file Answering brief until 02/08/2019. Date of service: 12/03/2018. [11106869] [10-99015] (Anderson, L.) [Entered: 12/03/2018 11:42 AM]
12/04/2018	<input type="checkbox"/>	142	Appellee John Hardison in 10-99015 substituted by Appellee Al Ramirez in 10-99015 [11108625] (BY) [Entered: 12/04/2018 10:45 AM]
12/04/2018	<input type="checkbox"/>	143	Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE): Respondent-Appellee's unopposed motion for an extension of time to file a replacement answering brief (Dkt. # 141) is GRANTED. The replacement answering brief shall be filed no later than February 8, 2019. The replacement reply brief, if any, shall be filed no later than March 1, 2019. [11108879] (AF) [Entered: 12/04/2018 11:49 AM]
01/31/2019	<input type="checkbox"/>	144	Filed (ECF) Appellee Al Ramirez Motion to extend time to file Answering brief until 03/11/2019. Date of service: 01/31/2019. [11173932] [10-99015] (Anderson, L.) [Entered: 01/31/2019 09:43 AM]
01/31/2019	<input type="checkbox"/>	145	Filed text clerk order (Deputy Clerk: AF): Respondent-Appellee's unopposed motion for an extension of time to file a replacement answering brief (Docket Entry No. 144) is GRANTED. The replacement answering brief shall be filed no later than March 11, 2019. The replacement reply brief, if any, shall be filed no later than April 1, 2019. [11174780] (AF) [Entered: 01/31/2019 02:33 PM]
03/11/2019	<input type="checkbox"/>	146	Filed (ECF) Appellee Al Ramirez Motion to file oversized brief. Date of service: 03/11/2019. [11223058] [10-99015] (Anderson, L.) [Entered: 03/11/2019 02:16 PM]
03/11/2019	<input type="checkbox"/>	147	Submitted (ECF) Answering Brief for review. Submitted by Appellee Al Ramirez. Date of service: 03/11/2019. [11223061] [10-99015] (Anderson, L.) [Entered: 03/11/2019 02:17 PM]
03/11/2019	<input type="checkbox"/>	148	Submitted (ECF) supplemental excerpts of record. Submitted by Appellee Al Ramirez. Date of service: 03/11/2019. [11223068] [10-99015] (Anderson, L.) [Entered: 03/11/2019 02:19 PM]
03/12/2019	<input type="checkbox"/>	149	Filed text clerk order (Deputy Clerk: AF): Appellee Al Ramirez Motion to file oversized brief (Docket Entry No. 146) is granted. [11224327] (AF) [Entered: 03/12/2019 10:48 AM]
03/12/2019	<input type="checkbox"/>	150	Filed clerk order: The answering brief 147 submitted by Al Ramirez is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The Court has reviewed the second supplemental excerpts of record 148 submitted by Al Ramirez. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11224565] (LA) [Entered: 03/12/2019 12:10 PM]

- 03/15/2019 151 Filed 4 paper copies of second supplemental excerpts of record [148] in 1 volume(s) filed by Appellee Al Ramirez. (sent to panel) [11229156] (LA) [Entered: 03/15/2019 10:25 AM]
- 03/15/2019 152 Received 7 paper copies of Answering Brief [147] filed by Al Ramirez. [11229410] (Sent to Panel) (RG) [Entered: 03/15/2019 11:50 AM]
- 03/20/2019 [153](#)
4 pg, 24.82 KB Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Reply brief until 05/01/2019. Date of service: 03/20/2019. [11235857] [10-99015] (Horwitz, Jonah) [Entered: 03/20/2019 01:38 PM]
- 03/21/2019 154 Appellee Al Ramirez in 10-99015 substituted by Appellee Keith Yordy in 10-99015 [11237344] (SLM) [Entered: 03/21/2019 11:35 AM]
- 03/21/2019 155 Filed text clerk order (Deputy Clerk: AF): Petitioner-Appellant's unopposed motion for an extension of time to file a replacement reply brief (Dkt. No. [153]) is GRANTED. The replacement reply brief shall be filed no later than May 1, 2019. [11237726] (AF) [Entered: 03/21/2019 01:55 PM]
- 04/23/2019 [156](#)
4 pg, 94.68 KB Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Reply brief until 05/31/2019. Date of service: 04/23/2019. [11273075] [10-99015] (Horwitz, Jonah) [Entered: 04/23/2019 08:42 AM]
- 04/23/2019 157 Filed text clerk order (Deputy Clerk: AF): Petitioner-Appellant's second unopposed motion for an extension of time to file a replacement reply brief (Docket Entry No. [156]) is granted. [11274418] (AF) [Entered: 04/23/2019 04:12 PM]
- 05/21/2019 [158](#)
4 pg, 24.19 KB Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Reply brief until 07/01/2019. Date of service: 05/21/2019. [11303847] [10-99015] (Horwitz, Jonah) [Entered: 05/21/2019 08:59 AM]
- 05/21/2019 159 Filed text clerk order (Deputy Clerk: AF): Petitioner-Appellant's third unopposed motion for an extension of time to file a replacement reply brief (Docket Entry No. [158]) is granted. [11304387] (AF) [Entered: 05/21/2019 12:18 PM]
- 06/27/2019 [160](#)
4 pg, 24.9 KB Filed (ECF) Appellant Thomas E. Creech Motion to file oversized brief. Date of service: 06/27/2019. [11346330] [10-99015] (Horwitz, Jonah) [Entered: 06/27/2019 08:23 AM]
- 06/27/2019 [161](#)
89 pg, 389.5 KB Submitted (ECF) Reply Brief for review. Submitted by Appellant Thomas E. Creech. Date of service: 06/27/2019. [11346351] [10-99015] (Horwitz, Jonah) [Entered: 06/27/2019 08:39 AM]
- 06/27/2019 162 Filed text clerk order (Deputy Clerk: AF): Appellant Thomas E. Creech's motion to file oversized brief (Docket Entry No. [160]) is granted. [11346722] (AF) [Entered: 06/27/2019 11:09 AM]
- 06/27/2019 [163](#)
2 pg, 93.95 KB Filed clerk order: The reply brief [161] submitted by Thomas E. Creech is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be submitted to the principal office of the Clerk. [11347719] (LA) [Entered: 06/27/2019 05:12 PM]
- 07/01/2019 164 Received 7 paper copies of Reply Brief [161] filed by Thomas E. Creech. (sent to panel) [11350606] (SD) [Entered: 07/01/2019 01:51 PM]
- 08/02/2019 165 FILED (ORIGINAL) CERTIFIED RECORD ON APPEAL. Record Part: State Lodged Docs, No. of Boxes: 2, Sealed: n. [11385217] (SOS) [Entered: 08/02/2019 10:25 AM]
- 09/19/2019 [166](#)
1 pg, 99.6 KB Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE): By November 15, 2019, appellee is directed to file a supplemental answering brief, not to exceed 13,000 words, addressing all of the uncertified issues raised in the appellant's replacement opening brief (Docket Entry No. [113]), at pages 88-173. Appellant must file a supplemental reply brief, not to exceed 6,500 words, within 21 days after service of the supplemental answering brief. No motions to exceed the word limits will be entertained. The court defers decision on whether a certificate of appealability will be granted as to the uncertified issues. [11437443] (AF) [Entered: 09/19/2019 01:50 PM]
- 11/01/2019 167 Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellee Keith Yordy. New requested due date is 12/16/2019. [11486237] [10-99015] (Anderson, L.) [Entered: 11/01/2019 01:11 PM]
- 11/01/2019 168 **Streamlined request [167] by Appellee Keith Yordy to extend time to file the brief is not approved because the case is assigned to a panel. The filer must file a motion.** [11486912] (DLM) [Entered: 11/01/2019 05:54 PM]
- 11/04/2019 [169](#)
8 pg, 354.07 KB Filed (ECF) Appellee Keith Yordy Motion to extend time to file Supplemental brief until 12/20/2019. Date of service: 11/04/2019. [11488404] [10-99015] (Anderson, L.) [Entered: 11/04/2019 03:12 PM]
- 11/05/2019 [170](#)
1 pg, 98.83 KB Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE): Appellee's motion for an extension of time to file the supplemental answering brief (Docket Entry No. [169]) is granted. The supplemental answering brief is now due December 20, 2019. The supplemental reply brief is due within

- 21 days after service of the supplemental answering brief. [11489462] (AF) [Entered: 11/05/2019 11:27 AM]
- 12/12/2019 [171](#)
8 pg, 347.91 KB Filed (ECF) Appellee Keith Yordy Motion to extend time to file Supplemental brief until 01/21/2020. Date of service: 12/12/2019. [11530499] [10-99015] (Anderson, L.) [Entered: 12/12/2019 02:53 PM]
- 12/12/2019 172 Filed text clerk order (Deputy Clerk: OC): Respondent-Appellee's unopposed motion [171] for an extension of time to file their supplemental brief, is granted. Respondent-appellee's supplemental answering brief shall be filed on or before January 20, 2020. Petitioner-appellant's supplemental reply brief shall be filed within 21 days after service of the supplemental answering brief. [11530771] (OC) [Entered: 12/12/2019 04:26 PM]
- 01/13/2020 [173](#)
7 pg, 389.13 KB Filed (ECF) Appellee Keith Yordy Motion to extend time to file Supplemental brief until 02/19/2020. Date of service: 01/13/2020. [11560103] [10-99015] (Anderson, L.) [Entered: 01/13/2020 02:09 PM]
- 01/13/2020 [174](#)
2 pg, 17.54 KB Filed (ECF) Appellant Thomas E. Creech response non-opposing motion ([173] Motion (ECF Filing), [173] Motion (ECF Filing) motion to extend time to file brief). Date of service: 01/13/2020. [11560296] [10-99015] (Livingston, Bruce) [Entered: 01/13/2020 02:59 PM]
- 01/14/2020 [175](#)
8 pg, 421.46 KB Filed (ECF) Appellee Keith Yordy Corrected Motion to extend time to file Answering brief until 02/19/2020. Date of service: 01/14/2020. [11561428] [10-99015] (Anderson, L.) [Entered: 01/14/2020 10:49 AM]
- 01/14/2020 [176](#)
1 pg, 99.4 KB Filed order (WILLIAM A. FLETCHER, RAYMOND C. FISHER and JAY S. BYBEE): Appellee's unopposed motion for a third extension of time to file the supplemental answering brief (Docket Entry Nos. [173], [175]) is granted. The supplemental answering brief is now due February 19, 2020. In light of the multiple extensions of time granted in this case, further requests to extend time are disfavored. The supplemental reply brief is due within 21 days after service of the supplemental answering brief. [11562203] (AF) [Entered: 01/14/2020 03:17 PM]
- 02/14/2020 177 Filed (ECF) UNDER SEAL Appellee Keith Yordy motion to file document under seal and submit sealed document. Type of document: brief. Date of service: 02/14/2020. [11598262] [10-99015]--[COURT UPDATE: Attached corrected PDFs. 02/14/2020 by LA] (Anderson, L.) [Entered: 02/14/2020 02:09 PM]
- 02/14/2020 178 COURT DELETED DUPLICATE ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [181]. Original Text: Submitted (ECF) Supplemental Brief for review. Submitted by Appellee Keith Yordy. Date of service: 02/14/2020. [11598264] [10-99015] (Anderson, L.) [Entered: 02/14/2020 02:11 PM]
- 02/14/2020 [179](#)
2 pg, 17.5 KB Filed (ECF) Appellant Thomas E. Creech response to motion ([177] Motion (Seal) (ECF Filing)). Date of service: 02/14/2020. [11598396] [10-99015] (Livingston, Bruce) [Entered: 02/14/2020 02:48 PM]
- 02/14/2020 180 COURT DELETED INCORRECT AND DUPLICATE ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [177]. Original Text: Filed (ECF) UNDER SEAL Appellee Keith Yordy notice of filing document under seal. Type of document: brief. Date of service: 02/14/2020. [11598601] [10-99015] (Anderson, L.) [Entered: 02/14/2020 03:48 PM]
- 02/14/2020 [181](#)
72 pg, 322.11 KB Submitted (ECF) Supplemental Brief for review. Submitted by Appellee Keith Yordy. Date of service: 02/14/2020. [11598602] [10-99015] (Anderson, L.) [Entered: 02/14/2020 03:49 PM]
- 02/14/2020 182 COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [183]. Original Text: Filed (ECF) Errata to supplemental excerpts of record ([181] Brief Submitted for Review (ECF Filing)). Filed by Appellee Keith Yordy. Date of service: 02/14/2020. [11598617] [10-99015] (Anderson, L.) [Entered: 02/14/2020 03:57 PM]
- 02/14/2020 [183](#)
148 pg, 7.67 MB Submitted (ECF) supplemental excerpts of record. Submitted by Appellee Keith Yordy. Date of service: 02/14/2020. [11598716]--[COURT ENTERED FILING to replace entry [182].] (LA) [Entered: 02/14/2020 04:42 PM]
- 02/14/2020 [184](#)
4 pg, 34.07 KB Filed Appellee Keith Yordy motion to file unredacted supplemental answering brief UNDER SEAL. Deficiencies: None. Served on 02/14/2020. (Court-entered filing, motion originally filed at [177].)[11598747] (LA) [Entered: 02/14/2020 04:52 PM]
- 02/14/2020 185 Submitted (ECF) UNDER SEAL Supplemental Brief for review. Submitted by Appellee Keith Yordy. Date of service: 02/14/2020. (Court-entered filing, brief originally submitted in [177].) [11598753] (LA) [Entered: 02/14/2020 04:58 PM]
- 02/24/2020 [186](#)
1 pg, 96.81 KB Filed clerk order (Deputy Clerk: AF): Pursuant to G.O. § 3.2.h, Judge Christen has been drawn as the replacement for Judge Fisher. The panel for this case will now consist of: W. FLETCHER, BYBEE and CHRISTEN, Circuit Judges. [11606340] (AF) [Entered: 02/24/2020 11:07 AM]
- 02/24/2020 187 Filed text clerk order (Deputy Clerk: AF): Respondent-Appellee's unopposed motion to seal portion of supplemental answering brief (DE #[177] and #[184]) is granted. [11606456] (AF) [Entered: 02/24/2020 11:37 AM]

- 02/24/2020 [188](#)
2 pg, 94.21 KB Filed clerk order: The supplemental answering brief [185] submitted by Keith Yordy is filed UNDER SEAL. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: tan. The supplemental excerpts of record [183] submitted by Keith Yordy are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11606583] (LA) [Entered: 02/24/2020 12:36 PM]
- 02/24/2020 [189](#)
1 pg, 89.55 KB Filed clerk order: The redacted supplemental answering brief [181] submitted by Keith Yordy is filed. No paper copies of the redacted brief are required at this time. [11606588] (LA) [Entered: 02/24/2020 12:38 PM]
- 02/25/2020 190 Received 6 paper copies of Supplemental Answering Brief [185] filed (UNDER SEAL) by Keith Yordy. (sent to panel) [11608461] (SD) [Entered: 02/25/2020 02:04 PM]
- 02/25/2020 191 Received 3 paper copies of third supplemental excerpts of record [183] in 1 volume(s) filed by Appellee Keith Yordy. (sent to panel) [11608578] (LA) [Entered: 02/25/2020 02:41 PM]
- 02/26/2020 [192](#)
5 pg, 26.28 KB Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Supplemental brief until 04/06/2020. Date of service: 02/26/2020. [11609347] [10-99015] (Horwitz, Jonah) [Entered: 02/26/2020 10:09 AM]
- 03/02/2020 [193](#)
1 pg, 95.36 KB Filed order (WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN): Appellant's unopposed motion for an extension of time to file the supplemental reply brief (Docket Entry No. [192]) is granted. The supplemental reply brief is now due April 6, 2020. [11614100] (AF) [Entered: 03/02/2020 08:50 AM]
- 03/25/2020 [194](#)
7 pg, 33.66 KB Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Supplemental brief until 05/06/2020. Date of service: 03/25/2020. [11640970] [10-99015] (Horwitz, Jonah) [Entered: 03/25/2020 07:42 AM]
- 03/25/2020 [195](#)
1 pg, 96.23 KB Filed order (WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN): Appellant's unopposed motion for a second extension of time to file the supplemental reply brief (Docket Entry No. [194]) is granted. The supplemental reply brief is now due May 6, 2020. [11641966] (AF) [Entered: 03/25/2020 04:02 PM]
- 04/27/2020 [196](#)
7 pg, 34.14 KB Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Supplemental brief until 06/05/2020. Date of service: 04/27/2020. [11672406] [10-99015] (Horwitz, Jonah) [Entered: 04/27/2020 11:04 AM]
- 04/27/2020 [197](#)
1 pg, 96.09 KB Filed order (WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN): Appellant's unopposed motion for a third extension of time to file the supplemental reply brief (Docket Entry No. [196]) is granted. The supplemental reply brief is now due June 5, 2020. [11673186] (AF) [Entered: 04/27/2020 03:56 PM]
- 05/27/2020 [198](#)
6 pg, 30.77 KB Filed (ECF) Appellant Thomas E. Creech Unopposed Motion to extend time to file Supplemental brief until 07/06/2020. Date of service: 05/27/2020. [11702253] [10-99015]--[COURT UPDATE: Updated docket text to reflect content of filing. 05/27/2020 by SLM] (Horwitz, Jonah) [Entered: 05/27/2020 11:01 AM]
- 05/27/2020 [199](#)
1 pg, 98.26 KB Filed order (WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN): Appellant's unopposed motion for a fourth and final extension of time to file the supplemental reply brief (Docket Entry No. [198]) is granted. The supplemental reply brief is now due July 6, 2020. In light of the multiple extensions of time granted in this case, further requests to extend time will not be granted absent extraordinary circumstances. [11702928] (AF) [Entered: 05/27/2020 03:44 PM]
- 07/06/2020 [200](#) 
36 pg, 192.2 KB Filed (ECF) UNDER SEAL Appellant Thomas E. Creech motion to file document under seal and submit sealed document. Type of document: brief. Date of service: 07/06/2020. [11742106] [10-99015]--[COURT UPDATE: Attached corrected PDFs. 07/06/2020 by LA] (Horwitz, Jonah) [Entered: 07/06/2020 09:07 AM]
- 07/06/2020 [201](#)
35 pg, 148.51 KB Submitted (ECF) Supplemental Brief for review. Submitted by Appellant Thomas E. Creech. Date of service: 07/06/2020. [11742131] [10-99015]--[COURT UPDATE: Attached corrected brief. 07/06/2020 by LA] (Horwitz, Jonah) [Entered: 07/06/2020 09:17 AM]
- 07/06/2020 [202](#)
4 pg, 84.32 KB Filed (ECF) Appellant Thomas E. Creech Motion to supplement record on appeal. Date of service: 07/06/2020. [11742747] [10-99015]--[COURT UPDATE: Attached SEALED declaration. 07/06/2020 by LA] (Horwitz, Jonah) [Entered: 07/06/2020 01:13 PM]
- 07/06/2020 203 Filed (ECF) UNDER SEAL Appellant Thomas E. Creech motion to file document under seal and submit sealed document. Type of document: other (Declaration). Date of service: 07/06/2020. [11742818] [10-99015] (Horwitz, Jonah) [Entered: 07/06/2020 01:47 PM]
- 07/06/2020 [204](#)
4 pg, 63.81 KB Filed Appellant Thomas E. Creech unopposed motion to file supplemental reply brief UNDER SEAL. Deficiencies: None. Served on 07/06/2020. (Court-entered filing, motion original filed in [200]) [11743143] (LA) [Entered: 07/06/2020 03:20 PM]

- 07/06/2020 [205](#) Submitted (ECF) UNDER SEAL Supplemental Brief for review. Submitted by Appellant Thomas E. Creech. Date of service: 07/06/2020. (Court-entered filing, brief originally submitted in [\[200\]](#).) [11743155] (LA) [Entered: 07/06/2020 03:22 PM]
- 07/06/2020 [206](#)
4 pg, 85.73 KB Filed Appellant Thomas E. Creech motion to file declaration UNDER SEAL. Deficiencies: None. Served on 07/06/2020. (Court-entered filing, motion originally filed in [\[203\]](#)) [11743164] (LA) [Entered: 07/06/2020 03:26 PM]
- 07/08/2020 [207](#)
1 pg, 96.88 KB Filed order (WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN): Appellant's unopposed motion to seal (Docket Entry Nos. [\[200\]](#) & [\[204\]](#)) portions of the supplemental reply brief (Docket Entry Nos. [\[201\]](#) & [\[205\]](#)) is granted. This order does not address appellant's motion to supplement the record on appeal (Docket Entry No. [\[202\]](#)) or the motion to file an additional declaration under seal (Docket Entry Nos. [\[203\]](#) & [\[206\]](#)). [11746195] (AF) [Entered: 07/08/2020 02:16 PM]
- 07/08/2020 [208](#)
2 pg, 94.82 KB Filed clerk order: The supplemental brief [\[205\]](#) submitted by Thomas E. Creech is filed UNDER SEAL. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: tan. The paper copies shall be submitted to the principal office of the Clerk. [11746314] (KWG) [Entered: 07/08/2020 03:00 PM]
- 07/08/2020 [209](#)
1 pg, 90.9 KB Filed clerk order: The redacted supplemental brief [\[201\]](#) submitted by Thomas E. Creech is filed. No paper copies are required at this time. [11746341] (KWG) [Entered: 07/08/2020 03:08 PM]
- 07/13/2020 [210](#)
7 pg, 61.08 KB Filed (ECF) Appellee Keith Yordy response opposing motion ([\[202\]](#) Motion (ECF Filing), [\[202\]](#) Motion (ECF Filing)). Date of service: 07/13/2020. [11749977] [10-99015] (Anderson, L.) [Entered: 07/13/2020 07:53 AM]
- 07/13/2020 211 Received 6 paper copies of Supplemental Brief [\[205\]](#) filed UNDER SEAL by Thomas E. Creech (sent to panel). [11750516] (DB) [Entered: 07/13/2020 12:07 PM]
- 07/14/2020 212 Filed (ECF) UNDER SEAL Appellant Thomas E. Creech motion to file document under seal and submit sealed document. Type of document: other (Reply In Support of Motion to Supplement the Record on Appeal [Dkt. 202-1]). Date of service: 07/14/2020. [11752654] [10-99015] (Horwitz, Jonah) [Entered: 07/14/2020 02:11 PM]
- 07/14/2020 [213](#)
4 pg, 33.39 KB Filed Appellant Thomas E. Creech motion to file Reply In Support of Motion to Supplement the Record on Appeal [Dkt. 202-1] UNDER SEAL. Deficiencies: None. Served on 07/14/2020. (Court-entered filing, motion originally filed in [\[212\]](#)) [11752768] (LA) [Entered: 07/14/2020 02:43 PM]
- 07/14/2020 214 Filed UNDER SEAL Appellant Thomas E. Creech reply to response to motion to supplement record on appeal [\[210\]](#) filed by Appellee Keith Yordy; served on 07/14/2020. (Court-entered filing, reply originally filed at [\[212\]](#)) [11752775] (LA) [Entered: 07/14/2020 02:47 PM]
- 07/16/2020 [215](#)
1 pg, 122.29 KB Filed order (WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN): Appellant's motion to file a reply brief under seal (Docket Entry Nos. [\[212\]](#) & [\[213\]](#)) is granted. Appellant's motions to supplement the record on appeal (Docket Entry No. [\[202\]](#)) and to file an additional declaration under seal (Docket Entry Nos. [\[203\]](#) & [\[206\]](#)) will be addressed in connection with his request to expand the certificate of appealability. [11755844] (AF) [Entered: 07/16/2020 04:17 PM]
- 07/16/2020 216 Appellee Keith Yordy in 10-99015 substituted by Appellee Tyrell Davis in 10-99015 [11755855] (AF) [Entered: 07/16/2020 04:21 PM]
- 01/29/2021 [217](#)
1 pg, 99.8 KB Filed clerk order (Deputy Clerk: AF): Oral argument will take place during the week of September 20, 2021, in San Francisco, California. The date and time will be determined by separate order. For further information or special requests regarding scheduling, please contact Deputy Clerk Paul Keller at paul_keller@ca9.uscourts.gov or (206) 224-2236. [11985516] (WL) [Entered: 01/29/2021 07:24 AM]
- 06/30/2021 [218](#)
5 pg, 128.1 KB Filed (ECF) Appellant Thomas E. Creech Motion for miscellaneous relief [Motion to Vacate Oral Argument]. Date of service: 06/30/2021. [12158631] [10-99015] (Horwitz, Jonah) [Entered: 06/30/2021 08:38 AM]
- 07/09/2021 [219](#)
13 pg, 189.24 KB Filed (ECF) Appellee Tyrell Davis response opposing motion ([\[218\]](#) Motion (ECF Filing), [\[218\]](#) Motion (ECF Filing)). Date of service: 07/09/2021. [12168274] [10-99015] (Anderson, L.) [Entered: 07/09/2021 01:42 PM]
- 07/13/2021 [220](#)
9 pg, 142.75 KB Filed (ECF) Appellant Thomas E. Creech reply to response (motion for miscellaneous relief (to be used only if no other relief applies),). Date of service: 07/13/2021. [12171499] [10-99015] (Horwitz, Jonah) [Entered: 07/13/2021 03:27 PM]
- 07/28/2021 221 Filed text clerk order (Deputy Clerk: WL): Appellant's motion to vacate oral argument (Docket Entry #[\[218\]](#)) is denied. [12185514] (WL) [Entered: 07/28/2021 12:14 PM]
- 08/26/2021 222 Notice of Oral Argument on Monday, September 20, 2021 - 1:30 P.M. - Courtroom 1 - Scheduled Location: Pasadena CA.
The hearing time is the local time zone at the scheduled hearing location.

View the Oral Argument Calendar for your case [here](#).

NOTE: Although your case is currently scheduled for oral argument, the panel may decide to submit the case on the briefs instead. See Fed. R. App. P. 34. Absent further order of the court, if the court does determine that oral argument is required in this case, you may have the option to appear in person at the Courthouse or remotely by video. Check [here](#) for updates on the status of reopening as the hearing date approaches. At this time, even when in person hearings resume, an election to appear remotely by video will not require a motion. The court expects and supports the fact that some attorneys and some judges will continue to appear remotely. If the panel determines that it will hold oral argument in your case, the Clerk's Office will contact you directly at least two weeks before the set argument date to review any requirements for in person appearance or to make any necessary arrangements for remote appearance.

Please note however that if you do elect to appear remotely, the court **strongly prefers** video over telephone appearance. Therefore, if you wish to appear remotely by telephone you will need to file a motion requesting permission to do so.

Be sure to review the [GUIDELINES](#) for important information about your hearing, including when to be available (30 minutes before the hearing time) and when and how to submit additional citations (filing electronically as far in advance of the hearing as possible).

If you are the specific attorney or self-represented party who will be arguing, use the [ACKNOWLEDGMENT OF HEARING NOTICE](#) filing type in CM/ECF no later than 21 days before Monday, September 20, 2021. No form or other attachment is required. If you will not be arguing, do not file an acknowledgment of hearing notice.[12212273]. [10-99015] (KS) [Entered: 08/26/2021 11:08 AM]

- 08/27/2021 223 Filed (ECF) Acknowledgment of hearing notice by Attorney Mr. L. LaMont Anderson for Appellee Tyrell Davis. Hearing in Pasadena on 09/20/2021 at 1:30 P.M. (Courtroom: Courtroom 1). Filer sharing argument time: No. Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 08/27/2021. [12213122] [10-99015] (Anderson, L.) [Entered: 08/27/2021 08:45 AM]
- 08/27/2021 224 Filed (ECF) Acknowledgment of hearing notice by Attorney Jonah Horwitz for Appellant Thomas E. Creech. Hearing in Pasadena on 09/20/2021 at 1:30 P.M. (Courtroom: Courtroom 1). Filer sharing argument time: No. (Argument minutes: 10.) Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 08/27/2021. [12213337] [10-99015] (Horwitz, Jonah) [Entered: 08/27/2021 10:10 AM]
- 09/07/2021 [225](#) Filed (ECF) Appellant Thomas E. Creech citation of supplemental authorities. Date of service: 09/07/2021. [12221216] [10-99015] (Horwitz, Jonah) [Entered: 09/07/2021 10:02 AM]
2 pg, 154.62 KB
- 09/14/2021 [226](#) Filed (ECF) Appellee Tyrell Davis citation of supplemental authorities. Date of service: 09/14/2021. [12228182] [10-99015] (Anderson, L.) [Entered: 09/14/2021 02:30 PM]
2 pg, 473.9 KB
- 09/16/2021 [227](#) Filed (ECF) Appellee Tyrell Davis citation of supplemental authorities. Date of service: 09/16/2021. [12230230] [10-99015] (Anderson, L.) [Entered: 09/16/2021 10:03 AM]
1 pg, 324.31 KB
- 09/20/2021 228 ARGUED AND SUBMITTED TO WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN. [12233582] (BG) [Entered: 09/20/2021 03:00 PM]
- 09/24/2021 [229](#) Filed Audio recording of oral argument. **Note:** Video recordings of public argument calendars are available on the Court's website, at <http://www.ca9.uscourts.gov/media/> [12238524] (BG) [Entered: 09/24/2021 02:26 PM]
1 pg, 64.04 MB
- 10/12/2021 [230](#) Filed (ECF) Appellant Thomas E. Creech citation of supplemental authorities. Date of service: 10/12/2021. [12253543] [10-99015] (Horwitz, Jonah) [Entered: 10/12/2021 10:15 AM]
2 pg, 128.05 KB
- 01/05/2022 231 Filed (ECF) notice of appearance of Christopher M. Sanchez (Federal Defenders of Idaho, Capital Habeas Unit, 702 W. Idaho St., Ste. 900, Boise, ID 83702) for Appellant Thomas E. Creech. Substitution for Attorney Bruce D. Livingston for Appellant Thomas E. Creech. Date of service: 01/05/2022. (Party was previously proceeding with counsel.) [12331702] [10-99015] (Sanchez, Christopher) [Entered: 01/05/2022 10:06 AM]
- 01/05/2022 232 Attorney Bruce D. Livingston in 10-99015 substituted by Attorney Christopher Michael Sanchez in 10-99015 [12331746] (DJV) [Entered: 01/05/2022 10:31 AM]
- 05/20/2022 [233](#) Filed (ECF) Appellant Thomas E. Creech citation of supplemental authorities. Date of service: 05/20/2022. [12452445] [10-99015] (Horwitz, Jonah) [Entered: 05/20/2022 11:33 AM]
2 pg, 113.84 KB
- 06/08/2022 [234](#) Filed (ECF) Appellant Thomas E. Creech Motion to file substitute or corrected brief. Date of service: 06/08/2022. [12466432] [10-99015] (Horwitz, Jonah) [Entered: 06/08/2022 11:57 AM]
15 pg, 92.78 KB

- 06/15/2022 [235](#) Filed (ECF) Appellee Tyrell Davis response to motion ([[234](#)] Motion (ECF Filing), [[234](#)] Motion (ECF Filing)). Date of service: 06/15/2022. [12471483] [10-99015] (Anderson, L.) [Entered: 06/15/2022 09:30 AM]
14 pg, 198.88 KB
- 06/22/2022 [236](#) Filed (ECF) Appellant Thomas E. Creech reply to response (). Date of service: 06/22/2022. [12476768] [10-99015] (Horwitz, Jonah) [Entered: 06/22/2022 09:57 AM]
9 pg, 110.4 KB
- 07/19/2022 [237](#) Filed (ECF) Appellant Thomas E. Creech Motion to stay appellate proceedings. Date of service: 07/19/2022. [12496940] [10-99015] (Horwitz, Jonah) [Entered: 07/19/2022 09:03 AM]
78 pg, 18.28 MB
- 07/20/2022 238 Appellee Tyrell Davis in 10-99015 substituted by Appellee Tim Richardson in 10-99015 [12497949] (TYL) [Entered: 07/20/2022 09:03 AM]
- 07/20/2022 239 Filed text clerk order (Deputy Clerk: AKM): Appellant's motion to take judicial notice, Dkt. No. [[32](#)], is denied. The motions, Dkt. Nos. [[202](#)], [[203](#)], and [[206](#)], are granted. Appellant's motion to stay filed 7/19/2022, Dkt. No. [[237](#)], is denied. [12497950] (AKM) [Entered: 07/20/2022 09:04 AM]
- 07/20/2022 [240](#) FILED OPINION (WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN) After we heard argument in the pre-Martinez appeal, we voted unanimously to deny all claims adversely to Creech except for those that became available post-argument under Martinez. Replacement or supplemental briefs of the sort Creech seeks to file would thus make no difference to the outcome. We therefore deny Creech's motion to file replacement or supplemental briefs. We affirm the district court's denial of Creech's second amended habeas petition. AFFIRMED. Judge: WAF Authoring. FILED AND ENTERED JUDGMENT. [12497960] (AKM) [Entered: 07/20/2022 09:08 AM]
47 pg, 622.86 KB
- 07/20/2022 [241](#) Filed order (WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN) The mandate is stayed pending the time to file a petition for certiorari. Please note the following:
2 pg, 39.49 KB
(1) If no timely petition for certiorari is filed, the mandate will issue immediately upon the expiration of the time to file, absent an extension for good cause shown;
(2) If a timely petition for certiorari is filed, the mandate will issue immediately upon notice to this court that the Supreme Court has denied the petition for certiorari unless the panel deems that extraordinary circumstances exist; and
(3) If certiorari is granted, the stay of the mandate will continue until the Supreme Court's final disposition. See Fed. R. App. P. 41(d).
If a petition for certiorari is filed, the moving party must notify this court in writing of that filing on the same day the petition is filed in the Supreme Court. In addition, please note that this stay does not limit the ability to file a petition for panel rehearing and/or rehearing en banc with this court. See Fed. R. App. P. 35 & 40. [12498588] (AKM) [Entered: 07/20/2022 03:26 PM]
- 07/25/2022 [242](#) Filed (ECF) Appellant Thomas E. Creech Motion to extend time to file petition for rehearing until 10/03/2022. Date of service: 07/25/2022. [12501341] [10-99015] (Horwitz, Jonah) [Entered: 07/25/2022 12:52 PM]
7 pg, 119.27 KB
- 07/27/2022 243 Filed text clerk order (Deputy Clerk: AF): Appellant's motion (Dkt. [[242](#)]) to extend time to file a petition for rehearing until October 3, 2022, is granted. [12503862] (AF) [Entered: 07/27/2022 05:40 PM]
- 10/03/2022 [244](#) Filed (ECF) Appellant Thomas E. Creech petition for panel rehearing and petition for rehearing en banc (from 07/20/2022 opinion). Date of service: 10/03/2022. [12553995] [10-99015] (Horwitz, Jonah) [Entered: 10/03/2022 05:13 AM]
72 pg, 469.57 KB
- 10/07/2022 [245](#) Filed order (WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN): Respondent-Appellee is directed to file a response to Petitioner-Appellant's Petition for Panel and En Banc Rehearing (Dkt. No. [[244](#)]) filed with this court on October 3, 2022. The response shall not exceed 20 pages or 5600 words and shall be filed within 21 days of the date of this order. [12558218] (AF) [Entered: 10/07/2022 09:54 AM]
1 pg, 31.21 KB
- 10/13/2022 [246](#) Submitted (ECF) Amicus brief for review and filed Motion to become amicus curiae. Submitted by National Disability Rights Network. Date of service: 10/13/2022. [12563045] [10-99015] (Litvack, Douglas) [Entered: 10/13/2022 06:41 PM]
31 pg, 263.45 KB
- 10/13/2022 [247](#) Submitted (ECF) Amicus brief for review and filed Motion to become amicus curiae. Submitted by National Association for Public Defense. Date of service: 10/13/2022. [12563061] [10-99015] (Wells, Vanessa) [Entered: 10/13/2022 09:29 PM]
34 pg, 120.36 KB
- 10/14/2022 248 Entered appearance of Amici Curiae - Pending NDRN and National Association for Public Defense. [12563548] (LA) [Entered: 10/14/2022 11:52 AM]
- 10/20/2022 [249](#) Filed (ECF) Appellee Tim Richardson Motion to extend time to comply with the order dated 10/07/2022. Date of service: 10/20/2022. [12568778] [10-99015] (Anderson, L.) [Entered: 10/20/2022 11:27 AM]
7 pg, 1.44 MB
- 10/26/2022 250 Filed text clerk order (Deputy Clerk: WL): Appellee's motion (Docket Entry #[249](#)) for an extension of time to file a response to the petition for panel and en banc rehearing until December 12, 2022, is granted. [12573875] (WL) [Entered: 10/26/2022 05:04 PM]

12/05/2022	<input type="checkbox"/> 251 8 pg, 1.76 MB	Filed (ECF) Appellee Tim Richardson Motion to extend time to file a response until 01/03/2023. Date of service: 12/05/2022. [12601710] [10-99015] (Anderson, L.) [Entered: 12/05/2022 07:42 AM]
12/05/2022	<input type="checkbox"/> 252	Filed text clerk order (Deputy Clerk: AF): Appellee's motion (Docket Entry #[251]) for an extension of time to file a response to the petition for panel and en banc rehearing until January 03, 2023, is granted. [12602728] (AF) [Entered: 12/05/2022 04:20 PM]
12/20/2022	<input type="checkbox"/> 253 79 pg, 22.4 MB	Filed (ECF) Appellee Tim Richardson Correspondence: Notice of Status of State Successive Post-Conviction Case with Appendices. Date of service: 12/20/2022 [12615175] [10-99015] (Anderson, L.) [Entered: 12/20/2022 03:30 PM]
12/20/2022	<input type="checkbox"/> 254 29 pg, 224.01 KB	Filed (ECF) Appellee Tim Richardson response to petition for panel rehearing and petition for rehearing en banc, Order. Date of service: 12/20/2022. [12615184]. [10-99015] --[COURT UPDATE: Updated docket text to reflect content of filing. 12/20/2022 by TYL] (Anderson, L.) [Entered: 12/20/2022 03:39 PM]
02/06/2023	<input type="checkbox"/> 255	Filed text clerk order (Deputy Clerk: AKM): The motions to become amicus curiae, Dkt. Nos. [246] and [247], are granted. [12646597] (AKM) [Entered: 02/06/2023 09:14 AM]
02/06/2023	<input type="checkbox"/> 256 45 pg, 256.41 KB	Filed order and amended opinion (WILLIAM A. FLETCHER, JAY S. BYBEE and MORGAN B. CHRISTEN). The opinion filed on July 20, 2022, and published at 40 F.4th 1013, is hereby amended and replaced by the amended opinion filed concurrently with this order. With this amendment, the panel has unanimously voted to deny the petition for panel rehearing. Judge Christen has voted to deny the petition for rehearing en banc, and Judges W. Fletcher and Bybee so recommend. The full court has been advised of the petition, and no judge of the court has requested a vote on the petition for rehearing en banc. Fed. R. App. P. 35. Appellant's petition for panel and en banc rehearing (Dkt. No. [244]) is DENIED. No further petitions for rehearing or rehearing en banc will be entertained. [12646612] (AKM) [Entered: 02/06/2023 09:17 AM]
02/06/2023	<input type="checkbox"/> 257 1 pg, 91.23 KB	Filed clerk order: The amicus brief [246] submitted by NDRN is filed. No paper copies are required at this time. [12646822] (JMR) [Entered: 02/06/2023 11:02 AM]
02/06/2023	<input type="checkbox"/> 258 1 pg, 89.3 KB	Filed clerk order: The amicus brief [247] submitted by National Association for Public Defense is filed. No paper copies are required at this time. [12646825] (JMR) [Entered: 02/06/2023 11:05 AM]
04/11/2023	<input type="checkbox"/> 259 45 pg, 256.41 KB	Entry to correct link to web for [256] [12693764] (AKM) [Entered: 04/11/2023 04:07 PM]
04/25/2023	<input type="checkbox"/> 260 2 pg, 17.99 KB	Received letter from the Supreme Court dated 04/19/2023: The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Kagan, who on April 19, 2023, extended the time to and including July 6, 2023. [12702639] (HH) [Entered: 04/25/2023 02:24 PM]
07/06/2023	<input type="checkbox"/> 261 1 pg, 55.02 KB	Supreme Court Case Info Case number: 23-5039 Filed on: 06/30/2023 Cert Petition Action 1: Pending [12749676] (RL) [Entered: 07/06/2023 11:22 AM]
10/10/2023	<input type="checkbox"/> 262 7 pg, 1.36 MB	Filed (ECF) Appellee Tim Richardson Motion for miscellaneous relief [Notice of Denial of Petition for Writ of Certiorari and Request for Immediate Issuance of Mandate]. Date of service: 10/10/2023. [12806879] [10-99015] (Anderson, L.) [Entered: 10/10/2023 09:41 AM]
10/10/2023	<input type="checkbox"/> 263 2 pg, 153.42 KB	Supreme Court Case Info Case number: 23-5039 Filed on: 06/30/2023 Cert Petition Action 1: Denied, 10/10/2023 MANDATE ISSUED. [12807490] (RL) [Entered: 10/10/2023 03:27 PM]

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EXHIBIT 2

(Declaration of L. LaMont Anderson, dated Dec. 4, 2023)

**DECLARATION OF DEPUTY ATTORNEY GENERAL L. LaMONT
ANDERSON, CHIEF, CAPITAL LITIGATION UNIT**

1. I am currently employed by the Idaho Attorney General's Office as a Deputy Attorney General and Chief, Capital Litigation Unit, a position I have held since approximately July 1997.

2. As a result of my position, I am familiar with the cases stemming from the murder of David Jensen by Thomas Eugene Creech, including those cases after Creech was sentenced to death in 1981, and after he was resentenced to death in 1995. Since Creech's 1995 resentencing, I have either been the handling attorney or supervising attorney in Creech's cases before the Idaho Supreme Court, the Federal District Court of Idaho, the Ninth Circuit Court of Appeals, and the United States Supreme Court.

3. I am also aware that Creech has filed a Commutation Petition with the Idaho Commission of Pardons and Parole ("Commission") and that a commutation hearing has been scheduled for January 19, 2024.

4. The purpose of this Declaration is to provide the Commission a synopsis of Creech's case and explain why it has taken over 40 years for his execution. This Declaration is supported by various appendices attached to the Declaration and the Clerk's Records, Reporter's Transcripts, and Register of Actions from the respective courts.

5. On May 18, 1981, while an inmate at the Idaho State Correctional Institute serving a fixed life sentence for two murders in Valley County that were originally death sentences, Creech brutally murdered David Dale Jensen, a fellow inmate who had been convicted of car theft, by beating David across his head with a battery filed sock and then kicking him in the throat and head.

6. On August 28, 1981, against the strenuous advice of his attorney, Rolf Kehne, and after having been examined by Dr. John Stoner, a psychologist who had been retained by Kehne, Creech pled guilty to David's first-degree murder. Throughout the hearing, Kehne made numerous objections, asked for continuances, and even moved to withdraw as counsel of record, all of which were denied by the Honorable Robert G. Newhouse.

7. Creech's sentencing was initially set for November 23, 1981, so that neurological testing could be completed, but was continued at Kehne's request to December 11, 1981, to complete additional neuropsychological testing.

8. On December 11, 1981, Creech gave the state a copy of Dr. Stoner's untimely report, which required the state to request a short continuance so it could be reviewed. Creech's sentencing was rescheduled to January 11, 1982.

9. Creech's sentencing hearing took place as rescheduled on January 11, 1982, during which he testified to murdering 26 other people, and expressing remorse for the various murders, including David's.

10. On January 25, 1982, Judge Newhouse issued his Findings of the Court in Considering the Death Penalty and sentenced Creech to death. (Appendix A.) A Death Warrant was issued the same day, scheduling Creech's execution for March 12, 1982.

11. Creech filed a Notice of Appeal on January 27, 1982, and his execution was stayed.

12. On May 16, 1982, Creech sent Ada County Sheriff Ed Palmer a letter asking that it be sent to the Chief Justice of the Idaho Supreme Court, and that his case "be decided as soon as possible. And get on with it. I don't know what the attorneys are doing with my case, as they have not kept me informed at all.... As I have repeatedly told you and the court, I don't want any delays or anyone intervening in my case." (Appendix B.)

13. On May 27, 1982, the Idaho Supreme Court Clerk sent Kehne a letter discussing Creech's May 16, 1982 letter to the Chief Justice, and expressing concern that Kehne had yet to file his opening brief that had been due May 25, 1982. (Appendix C.)

14. Despite Creech's and the clerk's letters and the fact that his opening brief was already untimely, Kehne sought an extension of time to file the brief and a Motion for Evaluation and Motion for Suspension. (Appendices D and E.) While it appears that Kehne's motion for extension of time was granted, his Motion for Evaluation and Motion for Suspension were denied (Appendix F). His opening brief was filed July 22, 1982, after receiving an additional 58 days.

15. Without requesting an extension, the state's Answering Brief was filed August 26, 1982, making Creech's reply brief due September 16, 1982. (Appendix G.)

16. After the expiration of time to file the reply brief, Kehne sought a 35-day extension of time to file his reply brief (Appendix H), which the Idaho Supreme Court denied on September 28, 1983, explaining, "We will expect the brief to be filed as soon as possible." (Appendix I). Ignoring the Idaho Supreme Court's denial of his motion for extension of time, Kehne's reply brief was not filed until October 26, 1982, 40 days after it was due. (Appendix J.)

17. On February 4, 1983, the Idaho Supreme Court sent Creech a letter acknowledging a letter he had sent to the court that was addressed to Judge Newhouse and dated January 16, 1982. (Appendix K.) Based upon events occurring at that time, it appears that Creech misdated the letter and that the correct date was January 16, 1983. Creech's letter addressed his confinement situation and stated that "to be placed in that situation again would only result in loss of another life . . . mine or there's [sic]."

18. On February 24, 1983, the Idaho Supreme Court entered an order vacating Creech's death sentence because, contrary to I.C. § 19-2503 and I.C.R. 43(a), Judge Newhouse's imposition

of the death penalty was done in Creech and his counsel's absence. (Appendix L.) The court further ordered that the "resentencing" take place within fourteen days. (Id) However, the court later ordered that the hearing before Judge Newhouse take place on or before April 4, 1983, because Kehne was unavailable before then. (Appendices M and N.)

19. On March 17, 1983, with Creech and Kehne present, Judge Newhouse read his prior Findings of the Court in Considering the Death Penalty, and sentenced Creech to death for David's murder, even though Kehne moved to vacate the hearing (Appendix O) and filed a plethora of other motions that Judge Newhouse denied. Creech again filed a notice of appeal on March 23, 1983. On March 24, 1983, Judge Newhouse issued another Death Warrant scheduling Creech's execution for April 29, 1983, that was stayed.

20. The original appeal and the appeal stemming from the resentencing were consolidated. On May 23, 1983, the Idaho Supreme Court affirmed Creech's conviction and death sentence. *See State v. Creech* (Creech I), 105 Idaho 362 (1983).

21. Creech petitioned for rehearing on June 13, 1983, making his supporting brief due on June 24, 1983. Creech sought a 28-day extension to file his supporting brief (Appendix P), which the Idaho Supreme Court granted (Appendix Q). Rehearing was denied on September 21, 1983. *See Creech I*, 105 Idaho at 362.

22. On May 19, 1983, while his appeal was pending, Creech filed a motion to withdraw his guilty plea, which Judge Newhouse denied until Creech's appeal was resolved. Nevertheless, Creech filed another Notice of Appeal.

23. On August 23, 1983, Creech sent another letter to the Idaho Supreme Court that included a request for "justice! If the court feels I have been given that justice, then so be it! Carry out the sentence, and stop the suffering! There is but one God, yet it seems this court, and others

are trying to play God, by playing with my life! All I ask is to decide if justice is [sic] been done in my case and if it has, then let me die with dignity!” (Appendix R.)

24. Nevertheless, on September 16, 1983, Kehne filed another motion requesting an additional 35 days to file the opening brief (Appendix S), which the Idaho Supreme Court granted (Appendix T). Kehne’s opening brief was finally filed on October 13, 1983, 41 days after the due date, and, without requesting any additional time, the state’s brief was filed November 13, 1983, with a motion to dismiss the appeal because Creech was not appealing from an appealable order (Appendix U).

25. Kehne’s reply brief was due November 25, 1983 (Appendix V), which was extended to December 9, 1983 (Appendices W and X). It appears the reply brief was never filed.

26. After oral argument, the Idaho Supreme Court granted the state’s motion to dismiss the appeal on January 24, 1984. (Appendix Y) (Creech II).

27. Meanwhile, the United States Supreme Court denied Creech’s Petition for Writ of Certiorari on February 21, 1984, that challenged the Idaho Supreme Court’s decision in Creech I. See Creech v. Idaho (Creech III), 465 U.S. 1051 (1984).

29. Because the appeals from Creech’s underlying conviction and death sentence were resolved, on January 24, 1984, Judge Newhouse entered an order that any post-conviction or other post-trial motions must be filed no later than February 6, 1984, and that a hearing would be held on February 21. At a hearing on February 3, 1984, Kehne complained he could not be ready to proceed based upon Judge Newhouse’s deadlines, which Judge Newhouse rejected.

30. Beyond his motion to withdraw his guilty plea, Creech did not seek any other post-trial relief, including post-conviction relief. Nevertheless, at the evidentiary hearing regarding his motion to withdraw his guilty plea that commenced on February 22, 1984, Kehne called several

witnesses, including Creech, who was repeatedly impeached with his prior statements to various individuals and conceded, “There’s been a lot of manipulation and a lot of lies and I guess what I’m trying to say is that I do things to fit the situation.”

31. On March 6, 1984, Judge Newhouse denied Creech’s motion to withdraw his guilty plea, reasoning, “A sentence of death is a tragic and extraordinary penalty, but when it is legally and properly imposed, execution must follow, or surely we are not a nation ruled and governed by law.” (Appendix Z.) Judge Newhouse entered another Death Warrant for Creech’s execution on May 24, 1984, which was stayed by the Idaho Supreme Court.

32. Creech filed another notice of appeal, and his opening brief was due July 24, 1984. (Appendix AA.) Kehne sought a seven-day extension of time (Appendix BB), which the Idaho Supreme Court granted (Appendix CC). However, rather than file his opening brief, Kehne filed a motion to suspend the proceedings demanding that Judge Newhouse enter findings of fact and conclusions of law regarding Creech’s motion to withdraw his guilty plea. (Appendix DD.) Creech responded with a letter to the Ada County Prosecutor expressing his frustration with Kehne and his desire to not “carry the appeals any further.” (Appendix EE.)

33. On September 12, 1984, the Idaho Supreme Court denied Kehne’s motion and ordered that he file the opening brief within 21 days, and that no further extensions of time to file the brief would be granted. (Appendix FF.) Again ignoring the court’s order, Kehne sought a seven-day extension of time (Appendix GG), which the supreme court granted (Appendix HH). Kehne’s brief was finally filed on October 15, 1984, 83 days after the original due date. (Appendix II.) After receiving two extensions of time (Appendices JJ, KK); the state’s answering brief was filed December 24, 1984 (Appendix LL.) It does not appear that Kehne filed a reply brief.

34. In June 1985, Creech sent several more letters to the Idaho Supreme Court asking that his appeals be dropped and that he be executed. (Appendices MM, NN.)

35. Without responding to Creech's letters, on June 20, 1985, the Idaho Supreme Court affirmed the denial of Creech's motion to withdraw his guilty plea. *See State v. Creech (Creech IV)*, 109 Idaho 592 (1985).

36. Kehne again sought rehearing on July 11, 1985. However, he failed to file a timely supporting brief, and on October 8, 1985, the Idaho Supreme Court issued an order that the supporting brief be filed with fourteen days or that Kehne show cause why he should not be held in contempt. (Appendix OO.) Kehne finally filed his supporting brief on October 23, 1985, 90 days after it was originally due. Rehearing was denied on December 31, 1985.

37. Based upon the Idaho Supreme Court's order in the Remittitur, Judge Newhouse entered a new Death Warrant on January 13, 1986, for Creech's execution on February 3, 1986.

38. Therefore, despite Kehne's numerous requests for extension of time, totaling more than 340 days, and other efforts to delay Creech's case, the underlying criminal case in the state courts was resolved within five years of David's murder on May 18, 1981.

39. On January 31, 1986, with Kehne's continued assistance, Creech commenced his traverse through federal court by filing his petition for writ of habeas corpus. (Dkt. 3.)¹ Creech also sought a stay of his execution (Dkt. 4), which was granted on January 31, 1986, by the Honorable Harold L. Ryan, United States District Judge (Dkt. 7).

¹ The documents in Creech's federal habeas case are not attached as appendices but are noted on the Register of Actions attached hereto as Appendix PP. The documents will be referred to by their respective docket numbers.

40. The state's answer was filed March 5, 1985 (Dkt. 10), and, after receiving a 10-day unopposed extension of time (Dkts. 12, 13, 14), the state's motion to dismiss the petition, supporting brief, and exhibits were filed April 1, 1986 (Dkts. 15, 16, 17).

41. After receiving a 31-day extension of time (Dkt. 21), Creech's response to the state's motion was filed May 12, 1986 (Dkt. 22). The state's reply brief was filed May 19, 1986. (Dkt. 23.)

42. On June 18, 1986, approximately five months after Creech filed his initial petition on January 31, 1986 (Dkt. 3), Judge Ryan denied Creech habeas relief and dismissed his petition (Dkt. 32). On July 9, 1986, Creech appealed to the Ninth Circuit. (Dkt. 42.)

43. On November 13, 1986, the state filed a motion to dismiss the appeal for failing to prosecute. (Appendix RR.)² On December 1, 1986, the Ninth Circuit ordered Kehne to show cause within fourteen days why he should not be disciplined for failing to comply with the court's rules. (Appendix SS.) Despite the 14-day deadline, Kehne did not file his response until December 30, 1986. (Appendix TT.) The court denied the state's motion to dismiss on March 11, 1987, but reprimanded Kehne "for his lack of diligence and admonished that any future failure to comply with the rules of this court may result in dismissal of the appeal and imposition of sanctions." (Appendix UU.) Kehne filed an emergency motion for an extension of time to file his opening brief on or about April 17, 1987 (Appendix VV), which the court granted (Appendix WW).

44. Despite the court's prior order regarding sanctions and Kehne's assertion that his brief would be timely filed on or about July 24, 1987, Creech's new co-counsel, Cliff Gardner, filed another motion for extension of time (Appendix XX), which the court granted (Appendix

² Most of the documents in Creech federal appeal are not attached as appendices but are noted on the Register of Actions attached hereto as Appendix QQ. Most of the documents will be referred to by their respective docket numbers, but some will be attached as appendices.

YY). Creech's oversized opening brief was finally filed on November 16, 1987 (Dkt. 34), more than 365 days after the original due date.

45. After receiving one extension of time (Dkt. 38), the state's answering brief was filed December 31, 1987 (Dkt. 39). Creech's reply brief was filed January 29, 1988 (Dkt. 44), after receiving one extension of time (Dkt. 43).

46. While Creech's appeal was pending, a letter was received from Mark Lankford, another death sentenced murderer, stating that Creech intended to kill additional inmates and correctional officers. (Appendix ZZ.) An investigation ensued and a shank was found in Creech's cell. (Appendix AAA.)

47. Oral argument took place on April 5, 1988. (Dkt. 54.) On August 3, 1990, the parties were ordered to file supplemental briefs. (Dkt. 74.)

48. On March 27, 1991, the Ninth Circuit affirmed in part, reversed in part, and remanded for issuance of a writ of habeas corpus, concluding (1) Creech was denied an opportunity to present new mitigating evidence at resentencing; (2) Judge Newhouse erred by not finding specific intent regarding two statutory aggravators; and (3) the "utter disregard" aggravator is unconstitutionally vague. *See Creech v. Arave (Creech V)* 947 F.2d 873 (9th Cir. 1991). Rehearing en banc was denied on October 16, 1991. *Id.*

49. The United States Supreme Court granted certiorari regarding the utter disregard aggravator, and on March 30, 1993, reversed, but remanded for further proceedings because Creech was still entitled to resentencing pursuant to the Ninth Circuit's ruling regarding the two other sentencing issues. *See Arave v. Creech (Creech VI)*, 507 U.S. 463 (1993).

50. Even after the numerous delays created by Creech, which involved more than 400 days for extensions, his first traverse through the federal courts was resolved in about seven years.

51. On November 12, 1993, an order was filed directing that the resentencing commence on December 27, 1993. (Appendix BBB.)

52. Pursuant to a stipulation signed by the parties, the resentencing was continued to March 7, 1994. (Appendix CCC.) On February 28, 1994, Kehne, the same attorney who had embarked upon a strategy of delay and been threatened with sanctions by both the Idaho Supreme Court and Ninth Circuit, filed another motion to continue the resentencing hearing. (Appendix DDD.) With Creech concurring, Judge Newhouse granted the motion and scheduled the resentencing for May 7, 1994. (Appendix EEE.)

53 Kehne responded by filing another motion to withdraw Creech's guilty plea (Appendix FFF) and another motion to continue the resentencing (Appendix GGG). Both motions were denied, with Judge Newhouse explaining the motion to withdraw the guilty plea had already been litigated.

54. For reasons that are not clear from the record, the resentencing did not commence as scheduled but was rescheduled to October 24, 1994. (Appendix HHH.) Pursuant to another Kehne motion, the resentencing was rescheduled to January 17, 1995. (Appendix III.) Kehne filed another motion to continue (Appendix JJJ), which was granted, resulting in a new resentencing date of March 13, 1995 (Appendix KKK). The resentencing finally commenced on March 13, 1995, and Creech was provided the opportunity to present any additional mitigation that he allegedly did not present when Judge Newhouse first sentenced him to death. On April 17, 1995, with Creech and his attorneys present, Judge Newhouse again sentenced Creech to death for David's murder. (Appendix LLL.) Judge Newhouse explained that Creech "kills almost on whims with little regard or interest in the consequences. He may 'feel bad' at times about some of these

murders, but he has no control or chooses not to exercise control over his actions. The protection of society demands that Thomas Eugene Creech receive the Death Penalty.” (Appendix LLL, p.8.)

55. On May 9, 1995, Kehne filed a post-conviction petition. Ada County Public Defender August Cahill was appointed to represent Creech during post-conviction proceedings, and a hearing was set for August 7, 1995. Cahill filed a motion to continue the hearing on June 13, 1995 (Appendix MMM), which Judge Newhouse granted. On August 25, 1995, Cahill stated he was not ready to proceed and asked for another extension of time, which Judge Newhouse granted to January 16, 1996. (Appendix NNN.)

56. On December 7, 1995, Cahill again sought an extension of time, which was granted to April 15, 1996. (Appendix OOO.) Based upon another Cahill motion, the hearing was continued to May 20, 1996. (Appendix PPP.) On May 17, 1996, Cahill sought another extension of time, which Judge Newhouse granted over the state’s objection, setting the new date for October 1, 1996. (Appendix QQQ.) The hearing finally commenced on that date with Cahill presenting additional mitigation evidence.

57. On December 12, 1996, Judge Newhouse denied post-conviction relief (Appendix RRR), concluding that the outcome of the resentencing would not have changed (*id.*, p.19). Judge Newhouse then issued a new death warrant, which the Idaho Supreme Court stayed.

58. Creech filed a notice of appeal, the appeal was consolidated with his resentencing appeal, and the Idaho Supreme Court ordered that his opening brief be filed February 18, 1997. (Appendix SSS.) Cahill responded by filing two motions for extension of time. (Appendices TTT, UUU.) While the Idaho Supreme Court granted both motions (Appendix VVV, WWW, the court advised that “no further extensions of time” to file the opening brief would be granted, and if the brief was not filed, “the Court may consider the imposition of sanctions (Appendices WWW).

Nevertheless, Cahill sought a third extension of time (Appendix XXX), which the Idaho Supreme Court granted with the same admonitions (YYY). The opening brief was finally filed on June 4, 1997, 106 days after the first due date, making the state's answering brief due July 2, 1997. (Appendix ZZZ.)

59. After seeking and obtaining two extensions of time (Appendices AAAA through DDDD), the state's answering brief was filed September 10, 1997, making Creech's reply brief due October 1, 1997. (Appendix EEEE.) After obtaining a 35-day extension of time (Appendix FFFF), Creech's reply brief was filed on or about October 22, 1997.

60. The Idaho Supreme Court affirmed Creech's conviction, death sentence, and the denial of post-conviction relief on August 19, 1998, criticizing Cahill for raising numerous issues that had already been resolved in Creech's prior appeals. *See State v. Creech (Creech VII)*, 132 Idaho 1 (1998). The court denied rehearing on October 23, 1998. The Supreme Court denied certiorari on June 1, 1999. *Creech v. Idaho (Creech VIII)*, 526 U.S. 1147 (1999).

61. Even with Creech's attorneys' requests for extensions of time and the filing of frivolous motions, the state court proceedings involving Creech's resentencing took only approximately five and one-half years, that included over 875 days for his extensions of time.

62. On June 10, 1999, with the assistance of the Federal Defenders of Eastern Washington and Idaho (Dkt. 3),³ Creech obtained a stay of execution from the Honorable B. Lynn Winmill, United States District Judge, and a scheduling order requiring that his habeas petition be filed no later than September 20, 1999 (Dkt. 4). Creech sought a six-month extension of time to

³ Most of the documents in Creech second federal habeas case are not attached as appendices but are noted on the Register of Actions attached hereto as Appendix GGGG. The documents will be referred to by their respective docket numbers.

file his petition (Dkt. 10), which, over the state's objection (Dkt. 14), was granted, in part, by extending the deadline to January 20, 2000 (Dkt. 16). The petition was filed on January 20, 2000 (Dkt. 17) and an amended petition was filed February 4, 2000 (Dkt. 18).

63. The state's answer was to be filed within 30 days (Dkt. 16), which, based upon two motions for extension of time (Dkts. 20, 23), was extended to May 12, 2000 (Dkt. 27). The answer was timely filed on that date. (Dkt. 26.)

64. Creech responded by filing a notification that his first successive post-conviction petition had been filed in state court on June 1, 2008, with the assistance of Teresa A. Hampton, who was also representing Creech in federal court.

65. The state's response to the successive petition was filed June 30, 2000. After receiving a 21-day extension, Creech's reply was filed July 21, 2000.

66. On January 25, 2001, the Honorable Ronald J. Wilper dismissed the successive petition because it was not timely filed pursuant to I.C. § 19-2719.

67. Creech filed a timely notice of appeal, and his opening brief was due July 18, 2001.

68. However, based upon I.C. § 19-2719 and to expedite the appeal, on July 18, 2001, the state filed a motion to dismiss the appeal. Hampton was ordered to file a response to the state's motion no later than September 27, 2001. After receiving an extension of time to October 12, 2001 (Appendices HHHH, IIII), Hampton's untimely response was filed October 15, 2001 (Appendix JJJJ). The state's reply was filed October 23, 2001. On June 6, 2002, the Idaho Supreme Court granted the state's motion and dismissed Creech's appeal pursuant to I.C. § 19-2719. *See Creech v. State (Creech IX)*, 137 Idaho 573 (2002). Creech sought rehearing, which was denied on August 1, 2002.

69. In federal court, on June 8, 2000, Creech sought and obtained, over the state's objection, a 90-day stay of the habeas proceedings while Creech litigated his untimely post-conviction petition. (Dkts. 31, 32, 34, 35, 38.) Counsel filed another motion to renew the stay for an additional ninety days (Dkts. 51, 52), which was granted before the state could file its objection (Dkt. 56). Another motion to extend the stay for an additional 120 days was granted before the state could respond. (Dkts. 64, 65.) Several additional extensions of the stay were granted over the state's objection or before the state could file an objection. (Dkts. 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77.)

70. On August 2, 2002, while the federal case was stayed, Creech filed another successive post-conviction petition and motion to correct illegal sentence, contending that he had to be resentenced because of Ring v. Arizona, 536 U.S. 584 (2002). On April 25, 2003, Judge Wilber denied relief because Ring does not apply retroactively. Creech filed a notice of appeal.

71. Creech's opening brief was due October 8, 2003. (Appendix KKKK.) Counsel filed two motions for extension of time. (Appendices LLLL, MMMM.) While both motions were granted, counsel was warned that no further extensions of time would be granted. (Appendices NNNN, OOOO.) Before Creech's brief could be filed, the state sought and obtained a stay of the appeal pending the completion of an appeal in another capital case that raised the same issue; the state's motion was granted. Once the other appeal was completed, the Idaho Supreme Court granted the state's motion to lift the stay in Creech's case and ordered that his opening brief be filed no later than October 17, 2005. (Appendix PPPP.)

72. Before Creech's opening brief was filed, pursuant to I.C. § 19-2719, the state filed a motion to dismiss the appeal, which the Idaho Supreme Court granted on December 23, 2005, in an unpublished Order. (Appendix QQQQ (Creech X).)

73. On August 26, 2002, while Creech's second successive post-conviction petition was pending, the state filed a motion to vacate the stay in federal court (Dkts. 83, 84), which Judge Winmill granted on October 23, 2002, and ordered Creech to file a Second Amended Petition for Writ of Habeas Corpus no later than January 31, 2003 (Dkt. 94). Therefore, up to that point, Creech's federal habeas case had been stayed 867 days while he litigated untimely successive post-conviction petitions.

74. Creech's untimely Second Amended Petition was filed February 2, 2003. (Dkt. 102.) Judge Winmill entered a case management order on March 31, 2003. (Dkt. 107.)

75. However, on May 20, 2003, Judge Winmill, sua sponte, entered another order vacating his prior order lifting the stay in Creech's case so he could complete litigation of his second successive post-conviction case based upon Ring. (Dkt. 114.) The state filed a motion to reconsider (Dkt. 115) that Judge Winmill denied (Dkt. 117).

76. On December 2, 2004, Judge Winmill entered an order conditionally lifting the stay. (Dkt. 124.) Creech filed an objection (Dkt. 125), while the state filed a notice of non-objection (Dkt. 126). The stay was lifted on January 7, 2005 (Dkt. 127), and a new case management order with various deadlines was filed February 4, 2005 (Dkt. 129). Therefore, the federal case was stayed an additional 598 days while Creech completed litigation of another untimely post-conviction petition, resulting in a total of 1426 days of inaction in the federal habeas case while he litigated untimely successive post-conviction petitions.

77. Because Creech's Second Amended Petition had been stricken, a new Second Amended Petition for Writ of Habeas Corpus was filed March 24, 2005. (Dkt. 131.)

78. On July 25, 2005, Creech received an indefinite extension of time to respond to the state's motion to dismiss procedurally defaulted claims until his motion for discovery was

resolved. (Dkt. 142.) The discovery motion was resolved on October 14, 2005, and Creech was ordered to file his response to the state's motion to dismiss procedurally defaulted claims no later than November 14, 2005. (Dkt. 146.) Creech sought a 30-day extension of time (Dkt. 147) that was granted (Dkt. 149). He also sought an additional three-day extension (Dkt. 150) that was also granted (Dkt. 154). Creech's response was filed December 19, 2005 (Dkt. 153) but was rejected because it did not comply with the court's page limitations (Dkt. 156). Creech's response was finally filed January 17, 2006 (Dkt. 157), 95 days after Judge Winmill's order was filed. The state's reply was filed March 8, 2006 (Dkt. 169), after receiving two extensions of time totally 28 days (Dkts. 165, 171).

79. On October 16, 2006, Judge Winmill filed an order that addressed various motions, dismissed numerous claims, and set a scheduling order for completion of briefing. (Dkt. 181.)

80. Without objection from Creech, the state received three extensions of time totaling 95 days to file its answer, which was filed March 5, 2007. (Dkts. 182-191.) Creech responded by filing a motion to amend the briefing schedule, which Judge Winmill granted in part. (Dkts. 192, 197.)

81. Despite having his motion to amend the briefing schedule granted, Creech filed three motions for extension of time totaling an additional 90 days to file his motions for evidentiary development that were all granted. (Dkts. 199, 201, 202, 205, 208, 210.) The state filed two motions for extension of time totaling 45 days to respond to Creech's motions for evidentiary development, which were granted without objection. (Dkts. 215-220.) Creech obtained a 30-day extension to file his reply. (Dkts. 224, 225.) Judge Winmill denied further evidentiary development on March 13, 2008, ordered the parties to address the merits of the remaining claims, and ordered that, "[d]ue to the age of this case, the Court advises the parties that it will not grant

extensions of time absent a showing of exceptional circumstances”; Creech’s opening brief was due no later than April 29, 2008. (Dkt. 229, pp.18-19.)

82. In response to Judge Winmill’s order, on April 25, 2008, Creech filed a motion to stay the proceedings to appoint new co-counsel. (Dkts. 230-233.) Despite his prior order, Judge Winmill construed Creech’s motion as a request for an extension of time, granted the motion over the state’s objection, and extended the time for filing Creech’s brief to September 15, 2008, but stated, “The Court will not grant another extension of time beyond that date.” (Dkts. 235, 237.)

83. Despite Judge Winmill’s order, Creech filed another request for more time (Dkt. 240), which was granted to October 3, 2008 (Dkt. 242). Creech’s oversized brief was finally filed on that date (Dkt. 245), 157 days after the original deadline on April 29, 2008.

84. The state’s response was due December 3, 2008. However, the state sought several extensions of time and stipulations were filed extending the time to file the state’s response. (Dkts. 248-260 264.) Ultimately, the state’s response was filed July 6, 2009. (Dkt. 262.)

85. Creech’s reply was due July 27, 2009. After obtaining two extensions of time (Dkts. 265, 266, 267, 269), Creech’s reply brief was filed October 23, 2009 (Dkt. 271).

86. On March 31, 2010, Judge Winmill denied habeas relief; judgment dismissing the case was filed the same day. (Dkts. 279, 280.)

87. On April 28, 2010, Creech filed a Motion to Alter or Amend (Dkt. 281), which Judge Winmill denied on June 9, 2010 (Dkt. 283). Creech filed a notice of appeal. (Dkt. 284.)

88. Creech’s opening brief before the Ninth Circuit was scheduled to be filed no later than October 11, 2010. (Dkt. 1.)⁴

⁴ Most of the documents in Creech appeal before the Ninth Circuit are not attached as appendices but are noted on the Register of Actions attached hereto as Appendix QQQQ. The documents will be referred to by their respective docket numbers.

89. Creech responded by filing a Motion to Remand on September 15, 2010, asking that the Ninth Circuit remand his case because of Magwood v. Patterson, 561 U.S. 320 (2010). (Dkt. 2.) The court denied Creech's motion. (Dkt. 7.)

90. Creech also filed a motion seeking 90 additional days to file the opening brief (Dkt. 6), which the court granted (Dkt. 7). After obtaining an additional 14-day extension (Dkts 8, 9), Creech's opening brief was filed January 26, 2011 (Dkt. 11), making the state's answering brief due March 29, 2011.

91. The state obtained three unopposed extensions of time totaling 90 days (Dkts. 14, 15, 16, 17, 18, 19), resulting in the states' answering brief being filed June 28, 2011 (Dkt. 23) and making Creech's reply brief due July 29, 2011.

92. Creech obtained three extensions of time totaling 100 days to file his reply brief (Dkts. 25-31), which was finally filed on October 28, 2011 (Dkt. 36).

93. On January 19, 2012, the state was ordered to file supplemental briefing addressing two uncertified claims no later than February 10, 2012. (Dkt. 45.)

94. After obtaining a three-working-day extension of time, the state's supplemental brief was filed February 15, 2012. (Dkts. 46, 48, 49.)

95. The case was argued before a three-judge panel on March 8, 2012. (Dkt. 59.)

96. On April 26, 2012, Creech filed a motion to remand, contending that Judge Winmill should rehear his case because the Supreme Court issued Martinez v. Ryan, 566 U.S. 1 (2012), on March 20, 2012, which held ineffective assistance of counsel during post-conviction proceedings could establish cause for a substantial claim of ineffective assistance of trial counsel. (Dkt. 64.) In other words, Creech wanted to present additional mitigation evidence to Judge Winmill that had never been presented to the state courts.

97. The state objected, asserting the case should not be remanded because no amount of additional mitigation was going to change the outcome of Creech's death sentence, particularly since he was a serial killer who killed a helpless inmate while in prison after having been sentenced to death in a prior double homicide. (Dkt. 66.)

98. Nevertheless, on June 20, 2012, the Ninth Circuit remanded Creech's case to Judge Winmill to hear Creech's new evidence and decide if Martinez would change the outcome of his sentence. (Dkt. 75.)

99. Judge Winmill immediately set a briefing schedule to address the Martinez issue ordering Creech's brief be filed no later than September 21, 2012. (Dkt. 294.)

100. Creech responded by requesting a stay of the briefing and a status conference. (Dkt. 296.) The motion was granted and the status conference set for September 27, 2012. (Dkt. 298.)

101. As a result of information provided at the status conference and thereafter, Judge Winmill "reluctantly conclude[d] that [he had] no realistic option but to grant counsel's request and extend the deadline." (Appendix RRRR, p.2.) However, after noting the length of time the case had already been pending, Judge Winmill chastised the Federal Defenders for not having adequate co-counsel and for accepting appointments from other judicial districts. (Id.) Thereafter, Judge Winmill extended the time for Creech's opening brief to June 3, 2013. (Id., p.3.)

102. The opening brief was filed on that date with a plethora of mitigation attachments that could and should have been filed decades earlier.

103. As a result of the volume of material submitted by Creech, the state sought and received two extensions of time totaling 39 days. (Dkts. 311, 312, 313, 314, 315, 322.) The state's brief was filed October 7, 2013. (Dkt. 315.)

104. After receiving a 14-day extension of time (Dkts. 317, 322), Creech's reply brief was filed December 16, 2013 (Dkt. 318).

105. On January 29, 2016, Judge Winmill again denied federal habeas relief, concluding the additional mitigating evidence would not have changed the outcome of Creech's sentencing. (Dkt. 325.)

106. With the assistance of new counsel at the Federal Defenders, Creech sought a 45-day extension of time to file a motion for reconsideration (Dkt. 328), which was "reluctantly" granted (Appendix SSSS, p.2), over the state's strenuous objection (Dkt. 330). However, Judge Winmill further ordered, "This is the last extension of time the Court will grant in this decades-old case. If [Creech] does not file a timely motion for reconsideration, the Court will enter judgment." (Appendix SSSS, p.2.)

107. Creech's motion for reconsideration was finally filed on April 11, 2016, with an even larger barrage of new mitigation documents that could and should have been presented decades earlier. (Dkts. 336, 337.)

108. Due to family emergencies and the sheer volume of material submitted by Creech, the state sought and received four extensions of time totaling 87 days to file its response. (Dkts. 341, 343, 345, 346. 347, 348, 349, 351, 353, 360.) The response was filed August 9, 2016. (Dkt. 358.)

109. Creech's reply brief was filed October 4, 2016, with another batch of mitigation documents that could and should have been filed decades earlier. (Dkt. 362.)

110. On March 24, 2017, Judge Winmill again denied habeas relief, explaining the new mitigation evidence would not have changed the outcome of Creech's sentence. (Dkt. 365.) Judgement was entered the same day. (Dkt. 366.)

111. Creech again appealed to the Ninth Circuit and filed several motions that delayed the filing of a new briefing schedule. On July 11, 2017, the court resolved Creech's motions and ordered that his opening brief be filed no later than September 11, 2017. (Dkt. 99.)

112. Creech sought and received five extensions of time totaling 210 days (Dkts. 101-109) with the court stating, after the fifth request, that no further extensions would be granted (Dkt. 109). On March 12, 2018, Creech finally filed his opening brief. (Dkt. 114.) However, in another attempt to delay resolution of his case, Creech also filed another motion to remand his case to Judge Winmill, contending he should be permitted to do additional investigation regarding his guilt-phase claims. (Dkt. 111.) The Ninth Circuit denied Creech's motion because it was "premature." (Dkt. 124.)

113. Due in part to the large size of Creech's opening brief, the state sought and received six extensions of time totaling 300 days to file the answering brief (Dkts. 134-145), which was filed March 11, 2019 (Dkt. 147).

114. After seeking and receiving three extensions of time totaling 90 days (Dkts. 153, 155-159), Creech's reply brief was filed June 27, 2019 (Dkt. 161).

115. On September 19, 2019, the court ordered the state to file supplemental briefing, which was filed February 14, 2020 (Dkt. 181) after receiving three extensions of time totaling 95 days (Dkts. 169, 170, 171, 172, 173, 174).

116. Creech's reply brief was filed July 6, 2020 (Dkt. 201), after receiving four extensions of time totaling 120 days and the court stating that further extensions of time would not be granted "absent extraordinary circumstances" (Dkts. 192-199).

117. As the court was scheduling oral argument during the week of September 20, 2021, Creech filed a motion to vacate the argument until the Supreme Court decided Shinn v. Ramirez,

596 U.S. 366 (2022). (Dkt. 218.) The court denied Creech’s motion and oral argument was held September 20, 2021. (Dkts. 222, 228.)

118. Further attempting to delay resolution of his case and while the Ninth Circuit’s opinion was pending, on June 8, 2022, Creech filed a motion for “replacement briefing” because of the Supreme Court’s decision in Shinn. (Dkt. 234.) On June 19, 2022, he filed a motion to stay the case because he had filed another successive post-conviction petition in state court because of Shinn. (Dkt. 237.) Two days later, on June 20, 2022, the court denied Creech’s motions and affirmed the denial of federal habeas relief. (Dkt. 240.)

119. After receiving a 60-day extension of time (Dkts. 242, 243), Creech’s petition for rehearing en banc was filed October 3, 2022 (Dkt. 244). The court ordered the state to file a response no later than October 3, 2022 (Dkt. 245), which was filed December 20, 2022 (Dkt. 254) after receiving two extensions of time totaling 66 days (Dkts. 249-252).

120. On February 6, 2023, the court denied Creech’s petition for rehearing en banc and issued a substitute opinion affirming the denial of federal habeas relief. See Creech v. Richardson (Creech XI), 59 F.4th 372 (9th Cir. 2023).

121. Creech sought review from the United States Supreme Court. After receiving a 60-day extension of time, Creech’s Petition for Certiorari was filed June 30, 2023. Incredibly, it included a claim that his Eighth Amendment right to be free from cruel and unusual punishment was violated because of the length of time his case had taken to be resolved despite the attempts by numerous attorneys to delay his execution. The Court unsurprisingly denied his petition on October 10, 2023. See Creech v. Richardson (Creech XIII), --- S.Ct. ---, 2023 WL 6558513 (2023).

122. However, the conclusion of Creech’s federal habeas proceedings did not stop him from filing more cases in state court.

123. As a result of the Supreme Court's decision in Shinn, and to further delay his execution, on June 30, 2022, Creech filed another successive post-conviction in state court raising ineffective assistance of counsel claims based upon the plethora of mitigation documents that were filed before Judge Winmill years earlier and that should have been filed decades earlier. On December 1, 2022, the Honorable Jason D. Scott dismissed the successive petition because it was obviously untimely.

124. Creech appealed to the Idaho Supreme Court. The briefing has been completed and oral argument is scheduled for February 5, 2024.

125. After the state obtained a new Death Warrant on October 12, 2023, Creech filed another successive petition on October 13, 2023, raising another Eighth Amendment claim regarding jury sentencing. That petition was also dismissed by Judge Scott a mere three days later without the state even being required to file a response, because it is also untimely. That case is also scheduled for oral argument before the Idaho Supreme Court on February 5, 2024.

126. I am also aware that Creech has filed several other civil actions in federal court challenging Idaho's method of execution. However, those cases are being handled by other deputy attorneys general and I have very little knowledge of them.

127. Creech's execution has now been stayed pending the outcome of his commutation petition.

128. As an attorney that has been doing capital litigation for over 25 years, I have unequivocally concluded that Creech's attorneys, early on, embarked on a strategy of delay. This is best exemplified by the huge number of extensions of time, spanning several years, that were requested over the past 40 years, the attempts to relitigate issues that were resolved by the court's years ago, and, most importantly, their failure to provide the reams of mitigation documents to the

federal courts until after 2012. And now, after they were unsuccessful in federal court, they have returned to state court with the same documents contending that Creech should be granted post-conviction relief years after Judge Winmill and the Ninth Circuit concluded they would not have changed the outcome of Creech's sentencing.

129. In other words, even though the Ninth Circuit initially concluded that Judge Newhouse erred by not allowing Creech to submit additional mitigation when he first read his Findings of the Court in Considering the Death Penalty to Creech and his attorney on March 17, 1983, nothing has changed even though Creech has had decades to uncover the reams of mitigation documents that have been presented in the state and federal courts.

130. Not a single judge, even in the Ninth Circuit, has concluded that the reams of mitigation Creech has offered overcomes the fact that he is a serial killer who brutally murdered another inmate while in prison, after having been sentenced to death for murdering two Valley County victims, being sentenced to death, and then having those death sentences commuted to fixed life.

131. If Judge Newhouse had permitted Creech to submit the reams of mitigation evidence when he read his findings on March 17, 1983, Creech would have been executed decades ago because it would not have changed the sentence. But because of a technical mistake, Creech's attorneys have been permitted to delay his execution since that time. They should not be permitted to manipulate the system by delaying Creech's execution and then contending that the length of that delay should be a factor in whether he is granted a commutation.

131. As explained by the United States Supreme Court in the second paragraph of the Court's opinion:

The facts underlying this case could not be more chilling. Thomas Creech has admitted to killing or participating in the killing of at least 26 people. The

bodies of 11 of his victims--who were shot, stabbed beaten, or strangled to death— have been recovered in seven States. Creech has said repeatedly that, unless he is completely isolated from humanity, he likely will continue killing.

Creech VI, 507 U.S. at 465-66.

132. Based upon Creech’s most recent DOR this year, where he was in a fistfight while playing cards with another death-sentenced murderer, Creech is not “completely isolated from humanity.” It is incomprehensible that the Idaho Department of Correction allows Creech to have any interaction with anyone outside of his cell. But that DOR clearly demonstrates that prison rules change over the decades, and there is simply no way to ensure that Creech will not kill again, especially since, as Judge Newhouse found, he “kills almost on whims with little regard or interest in the consequences.”

This ends my declaration.

CERTIFICATION

I certify under penalty of perjury pursuant to the laws of the State of Idaho that the foregoing is true and correct.

DATED this 4th day of December 2023.



L. LaMONT ANDERSON
Deputy Attorney General
Chief, Capital Litigation Unit